



TOWN OF
VICTORIA PARK

Agenda Briefing Forum Agenda – 7 March 2023



WE'RE OPEN
VIC PARK

Please be advised that an **Agenda Briefing Forum** will be held at **6:30 PM** on **Tuesday 7 March 2023** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

Mr Anthony Vuleta – Chief Executive Officer
3 March 2023

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1 About the Agenda Briefing Forum

The purpose of the Agenda Briefing Forum is to ask questions and seek clarity on the draft Ordinary Council Meeting agenda, in line with the Agenda Briefing, Concept Forum and Council Workshops Policy.

The meeting is open to all members of the public, except during the consideration of matters deemed confidential in line with the *Local Government Act 1995*.

Members of the public that are directly impacted by an item on the agenda may participate in the meeting through a deputation. A deputation is a presentation made by one individual or a group up to five people affected (adversely or favourably) by a matter on the agenda. Deputations may not exceed 10 minutes. A [Deputation Form](#) must be submitted to the Town no later than 24 hours prior to the meeting and is to be approved by the Chief Executive Officer.

All others may participate in the meeting during the allotted Public Participation Time. While it is not required, members of the public are encouraged to submit their questions and statements in advance by [email](#) or by completing the [Public Question/ Statement Form on the Town's website](#). Please note that questions and statements related to an agenda item will be considered first. All those dealing with matters of a general nature will be considered in the order in which they have been received.

For any questions regarding the Agenda Briefing Forum or any item presented in the draft agenda, please contact the Governance team at GovernanceVicPark@vicpark.wa.gov.au.

Disclaimer

Any plans or documents in agendas, minutes and notes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

Any advice provided by an employee of the Town on the operation of written law, or the performance of a function by the Town, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Town. Any advice on a matter of law, or anything sought to be relied upon as representation by the Town, should be requested in writing.

Noting that the Agenda Briefing Forum is only for the purpose of seeking further information on the draft Ordinary Council Meeting Agenda, and does not constitute a decision-making forum, any person or entity who has an application or submission before the Town must not rely upon officer recommendations presented in the draft agenda. Written notice of the Council's decision, and any such accompanying conditions, will be provided to the relevant person or entity following the Ordinary Council Meeting.

2 Opening

3 Acknowledgement of country

Acknowledgement of the traditional owners

Ngany djerapiny Wadjak – Noongar boodja-k yaakiny, nidja bilya bardook.

I am honoured to be standing on Whadjuk - Nyungar country on the banks of the Swan River.

Ngany kaaditj Noongar moort keny kaadak nidja Wadjak Noongar boodja. Ngany kaaditj nidja Noongar birdiya – koora, ye-ye, boorda, baalapiny moorditj Noongar kaaditjin, moort, wer boodja ye-ye.

I acknowledge the traditional custodians of this land and respect past, present and emerging leaders, their continuing cultural heritage, beliefs and relationship with the land, which continues to be important today.

Ngany youngka baalapiny Noongar birdiya wer moort nidja boodja.

I thank them for the contribution made to life in the Town of Victoria Park and to this region.

4 Announcements from the Presiding Member

4.1 Purpose of the Agenda Briefing Forum

The purpose of this forum is to provide an opportunity for Elected Members to ask questions and obtain additional information on officer reports in the draft Ordinary Council Meeting agenda. It is not a decision-making forum, nor is it open for debate.

Members of the public that may be directly affected by an item on the agenda can make presentations, deputations, statements, and ask questions, prior to the matter being formally considered by Council at the next Ordinary Council Meeting.

4.2 Notice of recording and live-streaming

All participation in the meeting will be audio recorded and live-streamed on the Town's website. The live-stream will be archived and made available on the Town's website after the meeting.

4.3 Conduct of meeting

All those in attendance are expected to extend due courtesy and respect to the meeting by refraining from making any adverse or defamatory remarks regarding Council, the staff or any elected member. No one shall create a disturbance at a meeting by interrupting or interfering with the proceedings through expressing approval or dissent, by conversing, or by any other means.

All questions and statements made by members of the public are not to personalise any elected member or member of staff. Questions and statements are to be directed to the Presiding Member, who may choose to call upon an officer of the Town, or another elected member, to assist with responses.

4.4 Public participation time

There is an opportunity to ask questions and make statements at the beginning and end of the meeting. The opportunity to ask questions and make statements at the end of the meeting is limited to the following:

- Those items on the agenda and
- Those members of the public who did not participate in the first public participation time at this meeting.

Public participation time will be held for 30 minutes. Any additional time must be by agreement from the meeting and will be in five-minute increments.

In line with the intended purpose of the Agenda Briefing Forum, questions and statements relating to an agenda item will be considered first. All others will be considered in the order in which they are received.

4.5 Questions taken on notice

Responses to questions taken on notice that relate to an agenda item will be presented in the officer report for the Ordinary Council Meeting agenda under the heading 'Further consideration'.

Responses to general matters taken on notice will be made available in the relevant Ordinary Council Meeting agenda under the section 'Responses to public questions taken on notice'.

5 Attendance

Mayor

Ms Karen Vernon

Banksia Ward

Deputy Mayor Claire Anderson

Cr Peter Devereux

Cr Wilfred Hendriks

Cr Luana Lisandro

Jarraah Ward

Cr Jesse Hamer

Cr Bronwyn Ife

Cr Jesvin Karimi

Cr Vicki Potter

Chief Executive Officer

Mr Anthony Vuleta

Chief Operations Officer

Ms Natalie Adams

Chief Financial Officer

Mr Duncan Olde

Chief Community Planner

Ms Natalie Martin Goode

A/Manager Governance and Strategy

Mr Brad Sillence

Manager Property Development and Leasing

Paul Denholm

Secretary

Ms Felicity Higham

Public liaison

Ms Alison Podmore

5.1 Apologies

5.2 Approved leave of absence

6 Declarations of interest

6.1 Declarations of financial interest

A person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the Council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest, where they are providing advice or a report to the Council. Employees may continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

6.2 Declarations of proximity interest

A person has a proximity interest in a matter if the matter concerns: a) a proposed change to a planning scheme affecting land that adjoins the person's land; b) a proposed change to the zoning or use of land that adjoins the person's land; or c) a proposed development (as defined in section 5.63(5) of the *Local Government Act 1995*) of land that adjoins the persons' land.

Land adjoins a person's land if: a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land. A person's land is a reference to any land owned by the person or in which the person has any estate or interest.

A member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

Employees are required to disclose their proximity interests where they are providing advice or a report to the Council. Employees may continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

6.3 Declarations of interest affecting impartiality

Elected members (in accordance with Code of Conduct for Council Members, Committee Members and Candidates) and employees (in accordance with the Code of Conduct for employees) are required to declare any interest that may affect their impartiality in considering a matter. The declaration must disclose the nature of the interest. This declaration does not restrict any right to participate in or be present during the decision-making process.

- 7 Public participation time**
- 8 Presentations**
- 9 Deputations**
- 10 Method of dealing with agenda business**

11 Chief Executive Officer reports

11.1 Council Resolutions Status Report - February 2023

Location	Town-wide
Reporting officer	Governance Officer
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Outstanding Council Resolutions Report February 2023 [11.1.1 - 51 pages] 2. Completed Council Resolutions Report February 2023 [11.1.2 - 27 pages]

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Notes the Outstanding Council Resolutions Report as shown in Attachment 1. 2. Notes the Completed Council Resolutions Report as shown in Attachment 2.

Purpose

For Council to note the Council resolutions status reports.

In brief

- At its meeting held on 17 August 2021, Council endorsed status reporting on the implementation of Council resolutions.
- The status reports are provided for Council’s information.

Background

1. On 17 August 2021, Council resolved as follows:

That Council:

1. Endorse the inclusion of Council Resolutions Status Reports as follows:

- a) Outstanding Items – all items outstanding; and
- b) Completed Items – items completed since the previous months’ report to be presented to each Ordinary Council Meeting, commencing October 2021.

2. Endorse the format of the Council Resolutions Status Reports as shown in Attachment 1.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	The reports provide elected members and the community with implementation/progress updates on Council resolutions.

Engagement

Internal engagement

Stakeholder	Comments
All service areas	Relevant officers have provided comments on the progress of implementing Council resolutions.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	Not applicable.				Low	
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- The Outstanding Council Resolutions Report details all outstanding items. A status update has been included by the relevant officer/s.
- The Completed Council Resolutions Report details all Council resolutions that have been completed by officers from 31 January 2023 to 28 February 2023. A status update has been included by the relevant officer/s.

Relevant documents

Not applicable.

11.2 Town of Victoria Park Representative on Burswood Park Board

Location	Town-wide
Reporting officer	A/Manager Governance and Strategy
Responsible officer	Chief Executive Officer
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council nominates an Elected Member, or an officer of the Town, for the consideration of the Minister for Racing and Gaming, as the Town of Victoria Park's representative to the Burswood Park Board from 1 August 2023 to 31 July 2027.

Purpose

To seek a nomination from Council as the Town's representative to the Burswood Park Board.

In brief

- The current local government representative to the Burswood Park Board is filled by the Chief Executive Officer, Anthony Vuleta, and is due to expire on 31 July 2023.
- The Department of Racing, Gaming and Liquor (the Department) has recently written to the Town requesting that the Town's nominee for appointment to the Board, together with the curriculum vitae of the nominee, be forwarded to the Department for the Minister for Racing and Gaming's consideration by no later than 31 March 2023.
- The term of appointment to the Board will be for a two-year period ending on 31 July 2027.

Background

1. The Burswood Park Board (the Board) was established in accordance with clause 6(1)(c) of the Agreement scheduled to the *Casino (Burswood Island) Agreement Act 1985*. Under the *Parks and Reserves Act 1895*, the Board is responsible for the control and management of Burswood Park – a "C class" reserve for parks and recreation.
2. Burswood Park comprises 100 hectares of C class reserve which surrounds five major buildings which make up Crown Perth, parks and gardens, permanent car-parking areas and the State Tennis Centre.
3. The Board is a body corporate with its president and members appointed by the Governor of Western Australia on the advice and recommendation from the Minister for Racing and Gaming. The Board is responsible to the Minister for Racing and Gaming as the Minister charged with the administration of the *Casino (Burswood Island) Agreement Act 1985*.
4. Under the terms of the State Agreement, Burswood Park is developed and maintained by the Board from revenue received from Casino operations.
5. As stated in the current Agreement in the *Casino (Burswood Island) Agreement Act 1985*, the Board is comprised of:
 - (a) one natural person from time to time nominated to the Minister by the Local Authority
 - (b) one natural person from time to time nominated to the Minister by the Manager

- (c) one natural person from time to time nominated to the Minister by the Rivers Management Minister
 - (d) Two natural persons from time to time nominated by the Minister, the Minister to nominate one of those persons as president for the time being of the Board.
6. The current Board members are as follows:
- (a) John McGrath (President) - Former Member of Parliament (Nominated by the Minister for Racing and Gaming).
 - (b) John Van Der Wielen - Crown Perth Chair, Crown Perth (Nominated by Burswood Resort (Management) Limited)
 - (c) Anthony Vuleta - Chief Executive Officer, Town of Victoria Park (Nominated by Town of Victoria Park)
 - (d) Dr Joanna Pearce - Lecturer - Tourism and Hospitality Management and Ecotourism, School of Business and Law, ECU / Board Member, Swan River Trust (Nominated by the Minister for Environment)
 - (e) Chris Melsom - Principal Associate to the Government Architect, Office of the Government Architect (Nominated by the Minister for Racing and Gaming)

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	Increased advocacy efforts with stakeholders to benefit the community.

Engagement

7. Not applicable.

Legal compliance

[Casino \(Burswood Island\) Agreement Act 1985](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.					
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	

Legislative compliance	Not complying with Town's statutory rights.	Minor	Unlikely	Low	Low	Council nominates a representative to the Board.
Reputation	Town's reputation is negatively affected.	Minor	Unlikely	Low	Low	Council nominates a representative to the Board.
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Not applicable.
Future budget impact	Not applicable.

Analysis

8. The Department has advised that the term of office of the Town's nominee on the Board, Anthony Vuleta, expires on 31 July 2023.
9. To enable the continued representation of a Town nominee on the Board after that date, the name of the Town's nominee for appointment to the Board needs to be forwarded to the Director General of the Department of Racing, Gaming and Liquor. A curriculum vitae for the nominee must also be submitted.
10. The Board typically meets on the last Thursday of each month, commencing at 9.30am, for approximately one hour. No meetings are held in January and special meetings may be held as required. Meetings are held in Burswood Park Boardroom.
11. The Board is accountable to the Minister for Racing and Gaming and Board members are each paid an annual lump sum fee which is currently \$5,200, unless they are a government officer.
12. Over time, the Board has improved the governance functioning around its operations, including the establishment of an Audit and Risk Committee, in which the Town's representative, Mr Vuleta is a committee member.
13. The Burswood Park Board is administered by the Minister for Racing and Gaming. The constitution of the Board provides for one member to be nominated by the local government where the Park is located that being the Town of Victoria Park.
14. Nominations submitted by the Town are subject to Governor approval on the recommendation of the Minister of Racing, Gaming and Liquor. The appointment of the local government nominated representative is the prerogative of the Minister of Racing and Gaming and Liquor. The Minister is not bound to appoint a nominee submitted by the Town, or be subject to the Town's policies. Notwithstanding the above, it is understood that the Minister would consider any advice or request submitted by the Town relating to its nomination.

Relevant documents

[Burswood Park Board Strategic Direction 2030](#)

[Burswood Park Board Annual Report 2022](#)

[Burswood Park Board Organisational Structure](#)

11.3 2023 Ordinary Local Government Elections

Location	Town-wide
Reporting officer	A/Manager Governance and Strategy
Responsible officer	Chief Executive Officer
Voting requirement	Absolute majority
Attachments	Nil

Recommendation

That Council:

1. In accordance with section 4.20(4) of the *Local Government Act 1995*, declares the Western Australian Electoral Commissioner being responsible for the conduct of the 2023 ordinary elections for the Town of Victoria Park, together with any other elections or polls which may be required;
2. In accordance with section 4.61(2) of the *Local Government Act 1995*, decides the method of conducting the elections will be a postal election.

Purpose

For Council to declare the WA Electoral Commissioner to be responsible for the conduct of local government ordinary elections, together with any other elections or polls which may be required, and to decide to conduct the election as a postal election.

In brief

- Local government elections are to be held on the third Saturday in October every two years, with this year having an election on 21 October 2023.
- Pursuant to the *Local Government Act 1995* (the Act), Council must resolve the method of conducting the election and who will be responsible for conducting the election.
- Given the Electoral Commissioner has previously been responsible for conducting ordinary elections at the Town, it is recommended that Council declare the Electoral Commissioner to be responsible for the conduct of the ordinary elections, together with any other elections or polls which may be required, for the 2023 local government elections.
- The Electoral Commissioner's agreement to conduct the elections is on the proviso that the Town agrees that Western Australian Electoral Commission (WAEC) conduct the elections as postal elections.
- Given the WAEC is the best placed body capable of conducting postal elections, their appointment of the Electoral Commissioner is required to ensure a postal election can be held.

Background

1. Pursuant to the Act, elections are held every two years, with each elected member serving four-year terms, with half of the elected body being determined by an election every two years.
2. Elections, as prescribed in the Act, can be held in one of two ways:
 - (a) A postal election where every elector mails their ballot and can return it in a large window envelope through the post or in person. Postal elections must be conducted by the WAEC under the Act.
 - (b) An 'in-person voting' election where polling booths would be operated across the Town. The WAEC has indicated it would not run a voting in person election for the Town.

3. Since the inception of the Town in July 1994, the election has been conducted by postal vote.
4. In the past, the Electoral Commissioner has been responsible for the conduct of ordinary elections at the Town of Victoria Park.
5. Section 4.20(4) of the Act provides that a local government may, having first obtained the written agreement of the Electoral Commissioner, declare the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period. If such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	The Town is required to conduct an election by law. Ensuring it is conducted by post and the WAEC will enable the effective delivery of the election as well as a level of impartiality.

Engagement

Not applicable.

Legal compliance

[Section 4.20\(4\) of the Local Government Act 1995](#)

[Section 4.61\(2\) of the Local Government Act 1995](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not appointing the Electoral Commission will result in an unknown financial cost in the Town conducting the election itself.	Moderate	Unlikely	Medium	Low	Appointing the Western Australian Electoral Commission (WAEC) to conduct the election.
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	

Legislative compliance	If the Electoral Commissioner is not appointed the Town will have to conduct the election itself. Given the lack of experience in conducting an election this could result in a non-compliant election.	Moderate	Possible	Medium	Low	Appointing the WAEC to conduct the election.
Reputation	If the Electoral Commissioner is not appointed to conduct the election, the election could be perceived to lack integrity	Moderate	Possible	Medium	Low	Appointing the WAEC to conduct the election.
Service delivery	Inability to deliver election.	Major	Likely	High	Medium	Appointing the WAEC to conduct the election.

Financial implications

Current budget impact	There are no funds that exist within the annual budget to address this recommendation.
Future budget impact	The WAEC has indicated that the estimated cost of the 2023 election will be \$134,000 (including GST). This amount will be included for consideration in the 2023-2024 Annual Budget.

Analysis

6. Given the WAEC is the only body capable of conducting a postal election, their appointment is required to ensure a postal election can be satisfactorily held.
7. The WAEC has written to the Town advising of the Electoral Commissioner's agreement to be responsible for the conduct of the 2023 ordinary elections for the Town of Victoria Park in accordance with section 4.20(4) of the Act, together with any other elections or polls that may also be required.
8. Given the Electoral Commissioner has previously been responsible for conducting ordinary elections at the Town, it is recommended that Council declare the Electoral Commissioner to be responsible for the conduct of the ordinary elections for 2023, together with any other elections or polls which may be required.
9. The Electoral Commissioner's agreement to conduct the 2023 elections is on the proviso the WAEC conducts the election as a postal election. The Act provides a decision to have a postal election has no effect unless the Electoral Commissioner is declared to be responsible for the conduct of an election.

Given that a number of elections at the Town in the past have been conducted by postal ballot, it is recommended the same method be followed for the 2023 elections.

10. The WAEC has estimated the cost of the 2023 elections to be \$134,000 (including GST) on the following basis:
 - (a) 24,700 electors.
 - (b) response rate of approximately 30%.
 - (c) Five vacancies.
 - (d) Count to be conducted at the offices of the Town of Victoria Park.
 - (e) Appointment of a local Returning Officer.
 - (f) Regular Australia Post delivery service to apply for the lodgment of the election packages.
11. In addition, a further cost of \$5,325 will be applied to have priority post for the delivery of packages. This estimate does not include:
 - (a) the costs of any additional postage rate increase by Australia Post
 - (b) any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
 - (c) the cost of having one Town of Victoria Park staff member working in the polling place on election day
 - (d) and any unanticipated costs arising from public health requirements for the COVID-19.
12. To appoint the Electoral Commissioner to conduct the 2023 ordinary election by postal ballot, the resolution worded as recommended in this report must be passed by absolute majority.

Relevant documents

Not applicable.

12 Chief Community Planner reports

12.1 Nos. 484 & 488 Albany Highway, Victoria Park – Proposed Read Park Multi-Purpose Community Space with Rooftop Alfresco Dining Area

Location	Victoria Park
Reporting officer	Place Leader (Strategic Planning)
Responsible officer	Manager Development Services
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Applicant's Submission Letter dates 14 October 2022 [12.1.1 - 8 pages] 2. Applicant's Amended Plans received 23 November 2022 [12.1.2 - 8 pages] 3. Applicant's Draft Read Park Multi-Purpose Community Space Management Plan received 16 January 2023 [12.1.3 - 3 pages] 4. Schedule of Submissions [12.1.4 - 9 pages]

Landowner	Town of Victoria Park – No. 488 (Lot 124) Albany Highway Finman Pty Ltd – No. 484 (Lot 123) Albany Highway
Applicant	Taylor Burrell Barnett
Application date	Submitted 14 October 2022
DA/BA or WAPC reference	5.2022.393.1
MRS zoning	Urban
TPS zoning	Lot 124 - 'Parks and Recreation' Reserve Lot 123 - 'District Centre' Zone
R-Code density	N/A
TPS precinct	Lot 124 - P10 'Shepperton Precinct' Lot 123 – P11 'Albany Highway Precinct'
Use class	Parks and Recreation (Community Facility)
Use permissibility	Permitted
Lot area	Lot 124 – 1,427m ² (1 of 7 lots comprising Read Park) Lot 123 - 1,265m ²
Right-of-way (ROW)	N/A

Local heritage survey	Place No. 041 'Read Park' – Category 2 (Place of Considerable Significance)
Residential character study area/weatherboard precinct	N/A
Surrounding development	Read Park; Albany Highway commercial strip to the south; Salford Street residential properties to the east; sumps and Lichfield Street residential properties to the north; 3-storey mixed use development to the west at adjoining property at No. 484 Albany Highway.

Recommendation

That Council approve the application submitted by Taylor Burrell Barnett (DA 5.2022.393.1) for Read Park Multi-Purpose Community Space with Rooftop Alfresco Dining Area at No. 488 (Lot 124) Albany Highway, Victoria Park, and Alterations to Existing Accessway and Balustrade at No. 484 (Lot 123) Albany Highway, Victoria Park in accordance with the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:

1. This development approval is valid until 15 March 2028, unless further development approval is granted. On or prior to the end of this period, the development is to be removed in its entirety, with the balustrade to the accessway at 484 Albany Highway being made good and all portions of Read Park affected by the development being reinstated to their pre-existing condition at the time of this approval or other state of repair agreed to in writing by the Town of Victoria Park.
2. The use of the approved structure within Read Park (portion of Lot 124), inclusive of the ground level multi-purpose community space and the rooftop deck, are restricted to purposes consistent with the recreational use of the land, as authorised in writing by the Town of Victoria Park. Any variation to the approved purposes/use of the structure is not permitted without the written approval of the Town of Victoria Park. The development is to be carried out in accordance with the approved plans, unless otherwise authorised in writing by the Town, or varied by the conditions of this approval.
3. Prior to commencement or occupation of the development, the applicant/owner of No. 484 Albany Highway must develop (in association with the Town), submit and have approved by the Town, and thereafter implement in association with and to the satisfaction of the Town, a facility and operational management plan(s).
4. The main structure/retrofitted sea containers accommodating the approved Multi-Purpose Community Space with Rooftop Alfresco Dining Area shall be designed, installed and thereafter maintained such that it is able to be temporarily removed and relocated at short notice, with minimal works or impact on the surrounding park land, to the satisfaction of the Town.
5. All windows and doors are to be provided with clear glazing and are not to be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the Town.
6. Complete details of the proposed external colours, finishes and materials to be used in the construction of the development are to be provided to the satisfaction of the Town prior to submission of an application for a building permit. The development shall be constructed in accordance with the approved details and shall be thereafter maintained.

7. Prior to lodging an application for a building permit, the applicant must submit and have approved by the Town, and thereafter implement to the satisfaction of the Town, a construction management plan addressing the following matters:
 - a. How materials and equipment will be delivered and removed from the site;
 - b. How materials and equipment will be stored on the site;
 - c. Parking arrangements for contractors;
 - d. Construction waste disposal strategy and location of waste disposal bins;
 - e. Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - f. How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works;
 - g. Construction traffic and pedestrian management; and
 - h. Other matters likely to impact on the surrounding properties or Read Park.
8. Prior to lodging an application for a building permit, a plan(s) and specifications shall be submitted detailing the location of all external lighting, sensor lighting, security cameras and any other crime prevention through environmental design (CPTED) measures to reduce the potential for antisocial behaviour as well as any anti-vandalism measures (e.g. security glass, anti-graffiti finishes, etc.) to be incorporated into the development to the satisfaction of the Town. Measures in accordance with the approved plan(s) and specifications shall be installed prior to commencement of the development and thereafter maintained.
9. Prior to lodging an application for a building permit, stormwater disposal plans, details and calculations must be submitted for approval by the Town and thereafter implemented, constructed and maintained to the satisfaction of the Town.
10. Prior to lodging an application for a building permit, details of footings, slab/base materials and any required retaining must be submitted for approval by the Town and thereafter implemented, constructed and maintained to the satisfaction of the Town.
11. Prior to lodging an application for a building permit, plans, construction details and materials of a compliant, wheelchair accessible pedestrian path connecting the approved Multi-Purpose Community Space to the Albany Highway public pedestrian path must be submitted for approval by the Town. The approved path is to be constructed by the Town or the Town's contractors at the cost of the applicant/owner of No. 484 Albany Highway prior to commencement of the development.
12. Prior to lodging an application for a building permit, final details of the altered fencing and gates between the Multi-Purpose Community Space and the Victoria Park Community Gardens shall be submitted to the satisfaction of the Town, demonstrating provision of sufficient access for Town vehicles and park maintenance machinery. The approved fencing is to be installed by the Town or the
13. Prior to lodging an application for a building permit, a detailed landscaping and reticulation plan must be submitted to and approved by the Town, and must include the following:
 - a. The location, number and type of proposed trees and shrubs including planter and/or tree pit sizes and planting density;
 - b. Any lawn to be established or replaced;
 - c. Any existing vegetation and/or landscaped areas to be retained;
 - d. Any verge treatments;

14. Existing trees located within Read Park and the adjacent verge are a Town asset and as such must be retained and protected in accordance with AS 4970-2009 and to the satisfaction of the Town.

Purpose

For Council to determine the application under Town Planning Scheme No. 1 and the Metropolitan Region Scheme, as the matter is required to be determined by Council in accordance with Part 4 of Council's resolution made at the 21 June 2022 OCM.

In brief

- The application seeks approval for the installation of two retrofitted sea containers within Read Park, with the ground level to comprise a multi-purpose community space. The rooftop abuts the first floor level of No. 484 Albany Highway, Victoria Park and is intended to be utilised as an alfresco dining area in association with Sonder Café, with views over Read Park.
- Read Park is reserved for the purposes of 'Parks and Recreation' under the Town of Victoria Park Town Planning Scheme No. 1. In addition, the land comprising Read Park is subject to a historic Deed of Trust. The Deed of Trust includes a declaration that a number of properties (including Read Park) be held for the people for recreation purposes.
- Legal advice has been obtained from Jackson McDonald confirming that the Proposal does not breach the terms of the Deed of Trust.
- The proposal has been the subject of ongoing review and consideration by Place Planning staff in collaboration with Parks, Building, Urban Planning, Property, Community and Engineering staff.
- The application was the subject of community consultation for 14 days, with 8 submissions (4 supporting submissions, 2 raising concerns without stating a position and 2 objections) being received during the community consultation period.
- It is recommended that the application be approved subject to conditions.

Background

1. Read Park consists of several adjoining lots, the legal description of the land is Lot 124 on Diagram 11084, Lot 125 on Plan 2916, Lot 126 on Diagram 10665, Lot 127 on Diagram 7442, Lot 128 on Plan 2916, Lot 129 on Plan 2916 and Lot 130 on Plan 2916. The land is reserved for Parks and Recreation under the Town of Victoria Park Town Planning Scheme No. 1.
2. Read Park comprises land used as a recreation reserve, playground, ablution facility, a community garden, as well as a historic small brick and iron residence that is currently vacant and has previously been used by community groups. The community garden area is approximately 925m² and is subject to a peppercorn lease with the Victoria Park Community Garden Association Inc. This lease commenced on 1 July 2012.
3. A preliminary concept for the proposed development was considered by the Council at the OCM held on 22 June 2021, whereby Council resolved to approved in-principle the proposed sea container concept subject to a legal opinion at the cost of the applicant, all regulatory approvals being obtained, and rent being set at fair market rental of \$4,000 per annum, plus GST, plus outgoings. Council also authorised the CEO to grant consent to the submission of a development application to give effect to the concept and authorised the public advertising of the proposed disposal of a 30m² portion of Read Park by way of a lease for a period up to five years under section 3.58 of the *Local Government Act 1995* and refer any submissions back to Council for consideration.

4. Due to the Deed of Trust registered on the Certificate of Title for the Read Park land by way of a caveat, legal advice was sought to clarify whether or not the proposed lease was permissible under the terms of the Deed of Trust. The cost of the legal advice obtained was met by the applicant. The advice received is that the Town would not breach the terms of the Deed of Trust in allowing and facilitating the proposed lease. The legal advice includes advice that so long as the purpose of recreation is served however the proposal is executed, the fact that there may be a commercial or other use involved would not put the proposal outside the terms of the Trust Deed.
5. The proposed lease was publicly advertised as required in terms of Section 3.58 of the *Local Government Act 1995* from 19 September 2022 until 6 October 2022, with 7 submissions being received (6 supporting and 1 requesting further information without stating a position). The proposed lease and submissions are due to be considered by Council at a forthcoming meeting.

Application summary

6. The Town has received a development application from Taylor Burrell Barnett on behalf of Finman Pty Ltd, the owner of 484 Albany Highway, which adjoins the northwest boundary of Read Park. Finman Pty Ltd has undertaken a gradual revitalisation of 484 Albany Highway over the past seven years, transforming 484 Albany Highway from an office building into a health and wellbeing hub.
7. The proposal seeks approval from the Town to utilise approximately 30m² of the 7383m² Read Park to place two retrofitted sea containers.
8. The rooftop of the structure is to be fitted with a balustrade and utilised as an outdoor alfresco dining area for Sonder Coffee. It is to be accessed from the pedestrian accessway at 484 Albany Highway, requiring alterations/an opening to be provided within the existing solid balustrade/boundary wall to provide access to the rooftop. The rooftop area will contain chairs and tables, planter boxes with small trees and a corner bench to provide additional amenity and permanent seating areas for visitors.
9. The ground floor level is accessed from Read Park. It is comprised of an open plan internal area and an external deck with an access ramp that is fixed to the southern edge of the deck. The north-eastern and south-western façades of the shipping containers will contain visually permeable windows with metal framing that facilitate passive surveillance of Albany Highway. This is intended to improve the safety and amenity of both the proposed development and the surrounding park.
10. The development application also includes the extension of the pedestrian path in Read Park to connect with the ground floor, and the relocation of the gated access to the community gardens to the north/rear of the development in order to maintain suitable access.
11. Amended plans were received in response to the request of Council officers to increase the extent of glazing in order to improve the external appearance of the structure, improve passive surveillance and increase visibility into and behind the development. The amended plans also detail a minimum offset to the structure, including the proposed deck and planter boxes, of 3.0 metres, consistent with the prior advice of the Town's Parks service area.
12. A draft management plan has also been submitted by the applicant at the request of Council officers to serve as a basis for ongoing negotiations and agreement as to the acceptable use and operations of the proposed multi-purpose community space and to detail those aspects of the proposal that the applicant/owner of 484 Albany Highway is willing to undertake responsibility for.

Applicant's submission

13. The applicant's submission accompanying the development application is contained in Attachment 1 to this report. The submission details the efforts made by the applicant to work with the Town and accommodate the feedback and advice of Council officers to arrive at the proposed design, location and operations/use of the development.

14. The applicant's submission concludes with the following supporting statement: *"As detailed in this submission, the proposal seeks approval to install two retrofitted sea containers, offering a multipurpose community space and outdoor dining deck in Read Park. The proposed use of the subject site for recreational purposes such as outdoor dining, and other community uses is consistent with the Parks and Recreational reserve requirements under Clause 14 of the Town of Victoria Park Town Planning Scheme No. 1. The uses are recreational and community oriented and are consistent with how parks are commonly used."*
15. The applicant was also provided with the opportunity to respond to a de-identified summary of the submissions received during the community consultation conducted in relation to the proposal and has responded as follows, noting that a numbers of the matters raised in submissions did not specifically relate to the proposal:

Summary of Issue Raised	Applicant's Response
<p><i>Queries regarding security measures</i></p>	<p><i>A management plan has been provided to further detail security measures among other things. The facility will be available for informal use during the morning and early afternoon, but the community space will be closed and locked from mid afternoon onwards. However, the facility will be available for bookings outside of hours, with arrangements for a lock box after hours. It is proposed that the facility will not be available for bookings after 8pm.</i></p> <p><i>Further security strategies are detailed in the management plan. A management plan has been provided to further detail security measures among other things. The facility will be available for informal use during the morning and early afternoon, but the community space will be closed and locked from mid afternoon onwards. However, the facility will be available for bookings outside of hours, with arrangements for a lock box after hours. It is proposed that the facility will not be available for bookings after 8pm.</i></p> <p><i>Further security strategies are detailed in the management plan.</i></p>
<p><i>Potential impacts to park users and amenity</i></p>	<p><i>The proposal has been carefully and thoughtfully designed and sited to minimise impacts on the parkland. The development is approximately 30m² in area, occupying a very small portion of a park that is approximately 8,000m².</i></p> <p><i>The proposal does not result in the removal of any trees. It also does not occupy an 'active' part of Read Park, noting the development is proposed in the area between a bore pump, transformer and the gate to the community garden.</i></p> <p><i>The development proposal has the potential to provide many positive amenity impacts including improved passive surveillance, reduced anti-social behaviour and increased incidental social opportunities for community members.</i></p>
<p><i>Noise Impacts</i></p>	<p><i>The development is situated approximately 45m away from the nearest residential property. A management plan has been provided which prescribes no parties or social gatherings. Given the small size of the facility,</i></p>

	<i>it is not considered to result in undue noise impacts.</i>
<i>Precedent</i>	<i>The applicant is seeking consideration of this proposal on its merit. Small cafes and commercial facilities in parks are not unusual and the proposal is that the land is leased at market value. It is not considered this facility would set a precedent for others.</i>
<i>Lack of direct access to Read Park</i>	<i>The facility has direct access to Read Park and the proponent has offered to extend the existing footpath to provide suitable access for people with disabilities, prams and the like.</i>

16. The proponents have also highlighted their ongoing interaction with the Community Garden committee, who have indicated their support for the proposal.

Relevant planning framework

Legislation	Town of Victoria Park Town Planning Scheme No. 1 Metropolitan Region Scheme
Local planning policies (LPPs)	LPP 34 'Community Consultation on Planning Proposals' LPP 43 'Heritage List'
Other	Public Open Space Strategy Social Infrastructure Strategy

General matters to be considered

Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015	<p>The following are relevant matters to be considered in determining the application.</p> <ul style="list-style-type: none"> • (b) the requirements of orderly and proper planning • (g) and local planning policy for the Scheme area • (j) the objectives for the reserve and the additional and permitted uses identified in the Scheme for the reserve • (k) the built heritage conservation of any place that is of cultural significance • (m) the compatibility of the development with its setting • (n) the amenity of the locality • (x) the impact of the development on the community as a whole • (y) any submissions received on the application
Clause 14 'Use of a Town of Victoria Park Scheme Reserve' of Town Planning Scheme No. 1	<p>The following are relevant matters to be considered in determining the permitted use of a Scheme Reserve:</p> <p>(a) A use which gives effect to the purposes for which the land is Reserved under the Scheme</p> <p>(b) Where the land is vest in a public authority, Commonwealth agency or in the Council a use which gives effect to any purpose for which the land may lawfully be used.</p>

Public Open Space Strategy (POSS)	This application has the following impacts, in regards to the POSS: <ul style="list-style-type: none"> • Supports the specific actions identified for Read Park in Appendix C
Social Infrastructure Strategy (SIS)	This application has the following impacts, in regards to the SIS: <ul style="list-style-type: none"> • Supports the achievement of the social infrastructure recommendations/needs identified for the Burswood South and Victoria Park Hub Investigation Area.

Compliance Assessment

17. With the exception of Clause 14 of Town Planning Scheme No. 1 (refer to Analysis section below) there are no specific development standards applicable to Town parks and recreation reserves under the Town's local planning framework. The components of the development related to works to the existing balustrade and access being provided to the rooftop alfresco dining area via the existing building at No. 484 Albany Highway are permissible and do not raise any issues with respect to development compliance matters.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL2 - Communication and engagement with the community.	Community consultation and engagement occurring in accordance with Local Planning Policy 37 'Community Consultation on Planning Proposals'.

Economic	
Community priority	Intended public value outcome or impact
EC2 - Connecting businesses and people to our local activity centres through place planning and activation.	Facilitating proposals that contribute to the activation, use and enjoyment of public spaces by the community.

Environment	
Community priority	Intended public value outcome or impact
EN3 - Enhancing and enabling liveability through planning, urban design and development.	The assessment and consideration of development proposals in a manner that promotes positive planning, streetscape and urban design outcomes.
EN4 - Increasing and improving public open spaces.	Facilitating the delivery of Town led or community led proposals that enhance quality, activation, use and enjoyment of public open spaces by the community.

Social	
Community priority	Intended public value outcome or impact
S1 - Helping people feel safe.	Consideration of crime prevention through environmental design principles, and measures to minimise the potential for criminal and antisocial behaviour to occur.

Engagement

Internal engagement

Stakeholder	Comments	Officer Response
Place Leader (Urban Design)	Is supportive of the proposal subject to additional detail provided in relation to on-site drainage, any retaining required, and materials used for the base/footings beneath the structure and landscaping in respect to the proposed planter boxes (located so as not to enclose or cut off access to the ground floor of structure from the park). The initial proposal was requested to include additional windows at either end of the structure and wider doors to improve passive surveillance and visibility through and into the structure, which were addressed in part by the applicant's amended plans.	Some conditions and advice notes have been recommended requiring the remaining matters to be addressed to the satisfaction and approval of the Town. Other matters are more relevant to the lease.
Parks	Have indicated no objection in the development application referral response. Further queries with Parks officers and management have confirmed the acceptability of the proposed 3.0m setback of the proposal from the Community Gardens to the rear, as well as the minimum 2.5m setback from the bore, electrical switchbox and other infrastructure located forward of the structure.	Some conditions have been recommended to ensure modifications, works or other impacts within Read Park are appropriately managed. Other conditions are more relevant to the lease.
Engineering	Have provided extensive comments and recommended conditions and advice notes on any approval of the application. Notwithstanding, Engineering has continued to maintain a stated position of 'object' in their development application referral response. It is understood that the reasons for this are related to concerns regarding the construction process, the ability to provide a wheelchair accessible path connection from Albany Highway to the facility and other general matters relating to its design,	It is considered that detailed consideration of these matters is capable of and more appropriately addressed in the lead up during the building permit application stage, following the granting of development approval. Some conditions have been recommended to address the concerns and issues raised by the Engineering team, as well as other internal service areas. Other conditions are more relevant to the lease

	<p>ability to be relocated, crime and antisocial behaviour, access to the community gardens and the management of the facility.</p>	
<p>Property</p>	<p>Are supportive of the proposal subject to the applicant's submitted management plan and any approval documents issued by the Town expressly referring to recreational use of the ground floor of the facility. It was also requested that the applicant consent to deletion of the proposed deck as this was not detailed in the concept presented to the Council at the 21 June 2022 OCM when approval to advertise the disposal of a 30m² portion of Read Park by way of lease was granted. Advice received from the Town's insurer has indicated that in the event of a claim by a member of the public neither the Town's insurer or the lessee's insurer would be likely to indemnify against damages arising on any part of the proposed facility that is owned by a third party.</p>	<p>Conditions of approval have been recommended which restrict the purpose/use of the facility to recreation, as authorised by the Town, consistent with the legal opinion. Express referral and commitment to the recreational purpose of the facility is also required as part of the recommended condition for a finalised management plan to be prepared and approved by the Town. Conditions in relation to the path construction (to be undertaken by the Town at the owner's cost) owner's cost) have also been recommended. Deletion or removal of the deck due to public liability/insurance coverage are not relevant planning considerations and are relevantly dealt with by the Town in its relationship as landowner with the proponent directly and/or through the lease negotiation process. There is considered adequate scope within the development approval conditions to allow for modification/finalisation of the path design/deck so as not to warrant the requirement for further development approval, even if the deck were removed from the proposal.</p>
<p>Community</p>	<p>Are supportive of the proposal and have indicated potential capacity to host the community space and manage online bookings via the Town's SpacetoCo subscription, similar to what is planned in relation to the delivery/management of the Vic Quarter community space. Staff have additionally recommended smart hardware/door security systems to be installed to enable remote electronic access rather than relying upon physical access keys. Prior advice was also received in relation to design and treatment of the development to minimise the potential for antisocial</p>	<p>Conditions of approval and related advice notes have been recommended to provide for the further refinement of the design specifications and proposed operations of the community space and for a finalised management plan to be prepared for approval by the Town. Inspection and evaluation of the facility and its social impacts can be covered by the terms of the required lease agreement and/or managed as part of the regular staff inspection/evaluation program of the Town's facilities.</p>

behaviour. Regular/annual evaluation and inspection of the development to ensure its ongoing sustainable operation and to measure its social impact/benefit to the community have also been recommended.

External engagement	
Stakeholders	General community, property owners, residents, businesses.
Period of engagement	14 days (1 st to 14 th December 2022)
Level of engagement	2. Consult
Methods of engagement	<ul style="list-style-type: none"> • Online consultation via the Town's 'website'; • Letters (61 total) posted to the owners and occupiers of residential and commercial properties surrounding Read Park, along Albany Highway, Salford Street and Lichfield Street. • An on-site sign located at the Albany Highway frontage of Read Park, aligned with the proposed location of the development.
Advertising	As above
Submission summary	8 submissions received (4 supporting submissions including the supporting submission received from the Victoria Park Community Garden Association below; 2 submissions raising concerns/questions without stating a position; 2 objections).
Key findings	The proposed development has not raised a significant level of community concern or opposition, with half of the small number of submissions received being in support of the proposal and only 2 objections being received.

Other engagement	
Stakeholder	Comments
Victoria Park Community Gardens Association	Supports the proposal as indicated on the applicant's plans and has confirmed that the Victoria Park Community Gardens do not utilise the existing gated access to their fenced garden/lease area that is located to the rear of the proposed development.

A full copy of the submissions (de-identified) with a response from Council Officers in relation to the issues/concerns raised is included in the Schedule of Submissions contained in Attachment 4 to this report.

Risk management considerations

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	The Town being left with the costs for removal or ongoing management/maintenance of the facility in the event the approval of the facility lapses and/or the ownership of 484 Albany Highway changing or trading of Sonder Café ceases.	Moderate	Unlikely	Low	Low	TREAT risk by approving the development subject to appropriate conditions. Protections/liability matters, rectification works, costs etc. are appropriately dealt with in a more formalised and explicit/legal sense as part of the terms of the required lease agreement through the Town's relationship with the proponent as landowner and lessee, respectively, if the lease is entered into.
Environmental	Not applicable	Not applicable	Not applicable	Not applicable	Medium	Not applicable
Health and safety	Creation of environmental conditions that may be conducive to antisocial behaviour and criminal activity to occur.	Moderate	Possible	Low	Low	TREAT risk by approving the development subject to conditions requiring the specification of crime prevention and security measures to be approved by the Town – e.g. sensor lighting, anti-vandalism measures, etc.

Infrastructure/ ICT systems/ utilities	Potential for the development to adversely affect access to the Town's infrastructure.	Minor	Possible	Medium	Medium	Treat risk by ensuring relevant conditions are contained in the planning approval and/or lease.
Legislative compliance	Not applicable.	Not applicable.	Not applicable	Not applicable.	Low	Not applicable.
Reputation	Should the development not be supported, potential for the Town's reputation to be negatively impacted by being considered bureaucratic as development in reserves exist in many other local governments.	Possible	Moderate	Medium	Low	Treat risk by supporting the development.
Reputation	Should the application be approved, the development having an adverse impact of the amenity of the area.	possible	Moderate	Medium	Low	Treat risk by ensuring relevant conditions are included in the planning approval and/or lease.
Service delivery	Not applicable.	Not applicable.	Not applicable	Not applicable.	Medium	Not applicable.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Subject to the associated lease being approved and entered into between the Town and the owner of 484 Albany Highway, the Town will receive an annual rental income of \$4,000 plus GST, plus outgoings if the development proceeds. Additionally, the delivery of the ground level multi use community space will deliver potential savings to the Town in terms of the implementation of the Social Infrastructure Strategy which recommends the Town's provision of community meeting spaces within the locality.

Analysis

18. The subject portion of Read Park is under-utilised and has a poor visual interface with the large blank expanse of boundary wall of the adjacent property at 484 Albany Highway. The site currently comprises a disused area of turf located amongst sprinkler and bore infrastructure and the gated access to the community gardens, which is effectively cut off from the remainder of the more developed portion of Read Park (that contains trees, park benches and playground infrastructure) by the main constructed pedestrian path into the reserve from Albany Highway.
19. The following merits of the proposal have been identified through assessment of the application, consistent with and/or additional to those previously detailed in the report presented to Council at the 21 June 2022 OCM:
- a. Provides an opportunity to enhance the currently poor interface of this portion of Read Park with the boundary wall of the adjacent property at 484 Albany Highway;
 - b. Has the potential to enhance the use and attraction of Read Park by the community by allowing both patrons of Sonder Café (themselves community members and/or visitors to the Town) and members of the public at ground level a comfortable and/or sheltered space to socialise and enjoy the green vista and landscaped surroundings provided by Read Park;
 - c. Increases the level of passive surveillance of Read Park, thereby contributing to improved safety outcomes and reduced propensity for antisocial activity to occur while the space is being utilised by patrons/community members;
 - d. Provides a space available for the use of the public at large and/or community groups to hold events, workshops or other community-based activities;
 - e. The use of the roof level alfresco by Sonder Café patrons is not dissimilar to alfresco dining that is permitted on the pedestrian path adjacent to hospitality businesses elsewhere along Albany Highway. In the case of Sonder Café, the existing raised floor level of the café above the basement car park does not facilitate easy access to Albany Highway at street level so the pedestrian path is unable to be utilised by the café for this purpose – therefore the café is not deriving any additional income than would otherwise occur if the café were constructed at grade with Albany Highway with potentially a far greater area of alfresco dining available for its patrons than is being sought as part of the proposal;
 - f. Kiosks, cafes and other compatible commercial uses can promote increased activation and enjoyment of parks and reserves by the community, as is seen in many local government areas, with proposals of this nature being supported by the Street's Ahead Action Plan prepared by the Vic Park Collective with extensive collaboration with the local community;
 - g. The proposal is consistent with the specific actions identified for Read Park in Appendix C of the Town's Public Open Space Strategy under the recommendation category of 'Support Local Economy': *As an Active Park street adjacent the cafe strip implement approaches such as wifi, dining spaces and art/interpretation.*
 - h. The proposal will contribute to implementation of recommendation 69 of the Town's Social Infrastructure Plan, which identifies convenient access to community meeting and community support spaces that contribute to neighbourhood cohesiveness as a priority local government social infrastructure project for the Burswood South and Victoria Park local hub investigation area.

Read Park Heritage Listing

20. Read Park is listed as a Category 2 place on the Town's Heritage List (Place of Considerable Significance) with its significance relating to the social value of the parkland to the local community

and its historic value associated with Ray Read who made a notable contribution to the development of Victoria Park's business community as well as representing Victoria Park in State Parliament.

21. As the proposed development serves to encourage the use, activation and surveillance of Read Park by the community it is not considered to cause any harm or adverse impact on the heritage significance of the place.

Clause 14 of Town Planning Scheme No. 1

22. The following are relevant matters to be considered in determining the permitted use of a Scheme Reserve:
 - a. A use which gives effect to the purposes for which the land is Reserved under the Scheme; and
 - b. Where the land is vested in a public authority, Commonwealth agency or in the Council a use which gives effect to any purpose for which the land may lawfully be used.
23. In regard to the subject proposal, the legal advice obtained in relation to the Deed of Trust has confirmed that so long as the purpose of recreation is served in however the proposal is executed, the fact that there may be a commercial or other use involved would not put the proposal outside the terms of the Trust Deed.
24. While the rooftop alfresco dining area does have a commercial aspect due to its association and intended use by patrons of Sonder Café, the Town will be imposing a fair market rent for the proposal (subject to approval of the associated lease agreement), and the restriction in use of Read Park for recreational purposes does not prohibit activities of a commercial nature. Indeed, entirely commercial food and beverage operations (restaurants, cafes, kiosks) as well as commercial amusement operations (Ferris wheels, carousels, etc.) are a common occurrence on many recreation reserves of both local and regional significance in WA and interstate (e.g. in local and regional parks, around lakes and river foreshore reserves and at beaches).
25. Metropolitan examples include 'Meeting Place Kiosk' in Hyde Park, 'Parkside Coffee' adjacent/opening onto Stuart Street Reserve, Perth, 'Tomato Lake Café', Kewdale and various other business at Scarborough Beach and Elizabeth Quay.
26. The proposed multi-use community space and rooftop alfresco dining area will provide the opportunity for members of the local community to gather, socialise and recreate within Read Park consistent with the Parks and Recreation reservation of the land under Town Planning Scheme No. 1. Accordingly, the subject proposal is permissible in terms of acceptable use both in relation to Clause 14 of Town Planning Scheme No. 1 and the Deed of Trust applying to the land and is therefore capable of approval by the Town. Its success, however, will be dependent upon the successful implementation and operation of the development.

Proposed Design

27. With exception of land use permissibility (Clause 14 of Town Planning Scheme No. 1) there are no specific development standards for facilities/buildings on Town parks and recreation reserves, although due regard is given to the scale and impact any structure will have within its setting and on any surrounding properties, which are commonly of a residential scale and appearance. In this case the proposal is located abutting the boundary wall of the three-storey mixed use development at 484 Albany Highway and opposite the commercial building on the opposite side of Albany Highway, being located a significant distance (more than 80 metres) from the direct line of site of any surrounding residential properties on Salford Street. Within this context the proposed retrofitted sea containers, which will be finished to a high standard with the inclusion of windows, doors, and an open rooftop dining area and balustrade are considered to be of an acceptable design and compatible scale within its setting.

28. Local Planning Policy 34 'Sea Containers' applies to residential and non-residential zoned land, rather than scheme reserves, and so is not applicable to the subject development. Notwithstanding, the proposal is considered to be consistent with the intent and objectives of the policy, in particular objective (c) which seeks to ensure that an acceptable standard of development is achieved that prevents the adverse visual amenity impacts that sea containers may have on the locality.
29. Assessment of the design by Council officers has considered the impact of the proposal on the surrounding public realm, including Read Park itself and the Albany Highway streetscape, passive surveillance and crime prevention through environmental design (CPTED) matters, the extent of proposed glazing/openings into the structure, internal furnishings and the quality of external materials and finishes. These aspects (as detailed on the applicant's amended plans) are considered to be generally acceptable, subject to further refinement and detailed consideration/approval of specifications prior to or during the building permit application stage to the satisfaction of the Town.

Recommendation for Conditional Approval

30. Some appropriate development approval conditions are recommended to ensure the successful refinement of the proposal, and provide for the smooth and effective operation of the proposed multi-purpose community space. Other conditions relating to safeguarding the Town from unnecessary risks or costs, the protection of Read Park infrastructure and addressing the concerns raised by internal service areas are more appropriate in the lease and/or building permit stage.
31. Many of these matters require significant additional resources and costs by the applicant to address (as well as the administrative time of Council officers to review/assess) and so are considered more appropriate to address once there is a reasonable level of certainty that the proposal is capable of proceeding via the conditional approval of the development application and/or approval for the Town to prepare and enter into an associated lease.
32. To avoid duplication of report content, Elected Members are requested to refer directly to the recommended conditions contained in the Officer recommendation for details of these matters. However, of particular note are the recommended condition restricting the approval to a term of the approval to 5 years (consistent with the anticipated lease term), thereby further protecting the Town in the event the proposal is unsuccessful or has any unintended adverse consequences.
33. In relation to legal requirements, indemnity, detailed management/operational matters and other obligations/responsibilities of the proponent, these should be appropriately and relevantly dealt with as part of the associated lease that is required to be entered into the Town to facilitate the proposal. While related to the facility and its operations, such matters are not relevant planning considerations, and it is not appropriate for the development approval or development approval conditions to address matters/responsibilities between the Town as landowner and the proponent as lessee.
34. The concerns raised in the two objecting submissions were found to either not have merit or are capable of resolution by the conditions recommended to be applied to the approval of the development as well as the more explicit and detailed terms of any forthcoming lease agreement. Much of the opposition is focused on a principles-based objection (rather than any significant amenity concerns) to what is perceived as the loss of public parkland to private commercial interests, notwithstanding that uses/activities of a commercial nature are a common and permissible activity on parks and reserves where they support the recreational use of the land.
35. On balance, the proposed development is considered to represent an innovative opportunity to facilitate a potentially very positive contribution to the locality, benefiting Read Park users and the broader community through provision of a genuine community space and the enhanced activation and surveillance of Read Park. It is therefore recommended that the application be approved subject to conditions as contained in the Officer recommendation.

Relevant documents

[WAPC Development Control Policy 5.3 - Use of Land Reserved for Parks and Recreation and Regional Open Space](#)

[Streets Ahead Action Plan – Vic Park Collective](#)

[Town of Victoria Park Public Open Space Strategy – Appendix C POS Recommendations \(refer page 22\)](#)

[Town of Victoria Park Social Infrastructure Strategy \(refer pages 88-91\)](#)

12.2 Notice of Motion - Town Art Collection and Presentation; Art Award

Location	Town-wide
Reporting officer	Arts Development Officer
Responsible officer	Manager Community
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">Attachment 1 - Elected Members Survey Art Collection Award [12.2.1 - 8 pages]Attachment 2 - LGA Art Awards Benchmarking Research [12.2.2 - 3 pages]

Recommendation

That Council:

- Endorse a selection of artworks from the Town's Art Collection to be exhibited with the Local History Awards in May 2023 at the Vic Park Centre for the Arts, with a view that future exhibitions be held biennially, dependent on positive community feedback;
- Endorse a sum of \$15,000 annually from the Town's Art Reserve to procure new works to build the Town's Art Collection;
- Endorse ongoing display of the Town's Art Collection online via the Collections WA website;
- Do not support the development of a printed Art Collection Book;
- Endorse continuation of the Arts Season as currently facilitated by the Town; and
- Do not support establishment of a new Art Award.

Purpose

To report on the investigations of the Notice of Motion from the 20 September 2022 Ordinary Council Meeting related to the Town's arts and culture area, for consideration in the annual budget FY2023-2024.

In brief

- At the Ordinary Council Meeting (OCM) 20 September 2022, a Notice of Motion (NoM) relating to the Town's Arts and Culture area was raised by Mayor Vernon (203/2022).
- Key elements of the NoM included investigations regarding exhibition of the Town's art collection and local history photographic collection; cataloguing / publication of the Town's art, public art and street visual art collections; and consideration for introduction of an art award.
- A Concept Forum was held 6 December 2023 to engage Council on this topic.
- Findings from Officer research and investigations, coupled with Elected Member engagement is now presented to Council for consideration.

Background

- At its meeting on 20 September 2022, a Notice of Motion relating to the Town's Arts and Culture area was endorsed by Council (203/2022)

That Council requests the Chief Executive Officer to:

- *investigate the development of a regular community event to publicly display the Town's Art Collection and the Local History Photographic Collection through a collaboration with the Victoria Park Centre for the Arts;*
 - *investigate the development of a catalogue of the Town's Art Collection, Public Art Collection and Street Visual Art Collection, including options for publication in hard copy and/or visual display on the Town's website;*
 - *investigate the establishment of a regular Art Awards event;*
 - *present a Concept Forum topic for elected member feedback as part of the investigations; and*
 - *provide a report back to the March 2023 Ordinary Council meeting on the results of the investigations.*
2. Investigations were presented to Elected Members by Town officers at a Concept Forum on 6 December 2022.
 3. A survey seeking feedback on the three points of the Notice of Motion investigations was presented during the forum and extended to allow further consideration. The survey was advertised on the Elected Members Portal for three weeks. Three responses were received. Results of the online survey can be found in Attachment 1.

Art Exhibition

4. At the Concept Forum on 6 December 2022, Elected Members were presented with a proposal to exhibit a selection of works from the Town's Art Collection at the Vic Park Centre for the Arts (VPCA) alongside the exhibition of the Local History Awards.
5. The Local History Awards are a biennial award run by the Town's Library that culminates in an awards night and exhibition at the Vic Park Centre for the Arts (VPCA).

Art Collection Catalogue

6. At the Concept Forum on 6 December 2022, Elected Members were shown the Town's Art Collection online via the Collections WA website. Collections WA is a free, searchable platform that brings together collections from libraries, galleries, museums, archives, historical societies, cultural organisations, community groups and other collecting organisations across Western Australia. This is a free platform that will be updated as the Town's collection grows. Elected Members were in principle supportive of this approach at the Concept Forum.
7. The Town provided the Vic Park Collective with a Restart Arts Grant in 2020 to produce an updated Urban Art Map. This is an online and printed resource which has a map of the locations of street art/murals within the Town of Victoria Park. This was presented to Elected Members at the Concept Forum on 6 December, with feedback indicating it was likely a sufficient catalogue of the Town's street art, and duplication was not necessary.

Art Collection Book

8. Investigations into the hours and cost of a hard copy book of the art collection were collated. Elected Members were asked to consider the use of the Art Books and the purpose they would serve. Of the three responses collected from the online survey, all respondents answered "no" to the question relating to the development of a printed art collection book.

Art Awards

9. The Victoria Park Art Awards (Awards) had its genesis in the Vic Park Centre for the Arts (VPCA) in 1995 and was originally intended to showcase local art and artists. The first exhibition was entitled 'Art in the

Park' and was held in 1995 at the Park Shopping Centre with 23 local artists participating. The Park Shopping Centre sponsored the prizes of \$700.00.

10. In 1998 the exhibition took the name 'The Victoria Park Art Awards' and was organised by and held at the VPCA. In 1999 the Town of Victoria Park (the Town) joined with VPCA and the Park Shopping Centre in organising the Art Awards and the venue became established at the Park Shopping Centre.
11. In 2012, Hawaiian (The Park Centre) withdrew as a venue and a partner, although they remained as a major sponsor. The Town partnered with VPCA to deliver the awards again, but it was decided to split the venue between the VPCA and the Drama Room in Leisurelife. It was noted in the event report that these venues were lacking in ambience and visitors, and sale numbers were the lowest yet. In 2013 and 2014 the Art Awards were held at Ed Millen House to make the awards more of an experience, with an opening night event and daytime artist workshops, activities, and music events throughout the exhibition.
12. During the preparation of the 2015 Victoria Park Art Award, it was recognised that the needs of all parties (community and professional) could not be met within the allocated budget.
13. At the Elected Members' Workshop on Tuesday 21 July 2015, the Town's Arts Officer presented an alternative direction, proposing the 2016 Victoria Park Art Season. This new initiative replaced the former Victoria Park Art Award event.

Strategic alignment

Social	
Community priority	Intended public value outcome or impact
S3 – Facilitating an inclusive community that celebrates diversity.	Funding arts projects adds to the pride of place by adding vibrancy and aesthetic enhancement to public spaces, while encouraging community conversations on topical issues.
S4 - Improving access to arts, history, culture and education.	Facilitate a sense of belonging and pride in place, showcasing the Town whilst developing and growing local talent to attract, retain and support the creative community.

Engagement

Internal engagement	
Stakeholder	Comments
Elected Members	Concept Forum 6 December 2022. Online Survey 6-16 December 2022. Three responses received. Summation of feedback provided in Attachment 1.
Library	The library is supportive of the exhibition of the Town's art collection alongside the Local History Awards.

Other engagement	
Stakeholder	Comments
Vic Park Centre for the Arts	Supportive of the exhibition of the Town's art collection alongside the Local History Awards. Supportive of hosting a Community Art Awards.
Local Government Authorities – City of Melville, City of Armadale, City of South Perth, City of Belmont, City of Stirling	Consulted with LGAs to benchmark budget and resourcing for an Arts Award. Summation of comments received provided in Attachment 2.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	An Art Award will have significant budgetary impact due to the requirement of additional staff, and potential additional operational resources, dependent upon which model is selected.	Moderate	Likely	High	Low	TREAT risk by considering the budget and resourcing implications early in the budget adoption process.
Environmental	Not applicable.					
Health and safety	Current staffing levels are inadequate to deliver existing actions within the Arts and Culture Plan, in addition to an Art Award leading to possible	Moderate	Likely	High	Low	TREAT risk by considering appropriate resources (financial and human resources) required if additional work is requested.

	psychosocial impacts on staff.					TREAT risk by reprioritisation of other works within the A&C Plan.
Infrastructure/ ICT systems/ utilities	Not applicable.					
Legislative compliance	Not applicable.					
Reputation	Altering the focus of prioritised work within the Arts and Culture Plan could result in a reputation risk with community due to a change in deliverables.	Moderate	Likely	High	High	TREAT risk by considering existing focus of the Arts and Culture Plan and existing resources available for delivery of that Plan.
Service delivery	Current staffing levels are inadequate to deliver existing actions within the Arts and Culture Plan, in addition to an Art Award leading to compromised service delivery standards.	Moderate	Likely	High	High	TREAT risk by considering appropriate resources (financial and human resources) required if additional work is requested, or prioritisation of other works within the A&C Plan.

Financial implications

Current budget impact

Art Exhibition – Town's Collection

- Sufficient funds exist within the annual budget to address this recommendation.
- Funding will be sourced from: Arts & Culture Plan Implementation - \$4,000

Art Catalogue online

- Collections WA is a free cataloguing website. If Council support this recommendation, there is no budget impact.

Art Collection Book

- Sufficient funds do not exist within the annual budget to allow for the development of an art collection book.

	<p>Art Award</p> <ul style="list-style-type: none"> Funding is not considered in this financial year, as it would not be possible to facilitate an outcome within this timeline.
<p>Future budget impact</p>	<p>Art Exhibition – Town's Collection:</p> <ul style="list-style-type: none"> Sufficient funds would need to be budgeted (proposed biennially) to address this recommendation. Funding would be sourced from: Arts & Culture Plan Implementation - \$4,000 Funding is also proposed for consideration in annual budgets to purchase additional items each year to refresh and enhance the Town's Art Collection. A nominal sum of \$15,000 per annum from the Town's Art Reserve would assist achievement of this aim. A sum of \$654,282 'Proposed Budget Closing Balance' is listed in the 2022/23 Annual Budget within the Community Art Reserve. Council position regarding the Town's Art Collection will also influence the review and recommendations related to the <i>Policy 112 – Visual Arts</i>. <p>Art Catalogue online:</p> <ul style="list-style-type: none"> Collections WA is a free cataloguing website. There is no future budget impact for this. <p>Art Collection Book:</p> <ul style="list-style-type: none"> Sufficient funds do not exist within the future annual budget to allow for the development of an art collection book. <p>Art Award</p> <ul style="list-style-type: none"> Dependent upon which Art Award model is endorsed by Council, additional staffing and operating resources to deliver the program may be required. Table 4 below provides an overview of potential models, and associated costs for each model.

Analysis

Art Exhibition

- The Town's Art Collection has 98 pieces. It is proposed that approximately 20 curated pieces will be exhibited alongside the Local History Awards in May 2023. Elected Members provided in principle support of the proposal to exhibit tabled at the concept forum on 6 December 2022.
- A quote has been received from the VPCA to curate and install works. Sufficient funds exist within the annual budget to deliver this in the current financial year.
- If the Town continues to exhibit works in the collection every two years with the Local History Awards, it will exhaust the current art collection in five exhibitions. This is based on the notion of not exhibiting the same artworks twice, and no new works are added to the collection. Currently funds do not exist within the annual budget for new artwork acquisitions.
- It is recommended that Council endorse exhibition of the Town's art collection in partnership with the VPCA, commencing in May 2023, and then biennially, dependent on feedback from the community.

18. It is also recommended that Council consider a sum of \$15,000 per annum from the Town’s Art Reserve to continue building upon the Town’s existing art collection to refresh and enhance the collection and potential exhibition offerings.
19. Work is proposed to be undertaken this financial year to assess and value the Town’s Art Collection, which will also assist curation of future exhibitions and management of the collection.

Art Collection Book

20. At the Concept Forum on 6 December 2022, Elected Members were mixed in their support for the development of a printed pictorial book of the Town’s art collection. Its use and purpose were not clearly articulated. All three respondents to the Elected Member Portal Survey indicated they were not in support of a printed Art Collection Book.
21. Staff hours and costs to produce an art book are estimated in Table 1 below.

Table 1 – Art Collection Costings

Art Collection Book	Quantity	Cost
Graphic Designer Staff	50 hours @\$120 /hr	\$6,000
Art Book Printing	50 books	\$2,795
	100 books	\$4,695
	500 books	\$8,335
	1000 books	\$13,315.00

22. Due to the high cost and lack of strategic use of the printed books, it is recommended that the development of an Art Collection Book is not supported by Council.

Art Award

23. Arts Season has been a successful community art event since replacing the Art Award in 2016. This year is the eighth anniversary of Arts Season. The 2023 program will include over 45 events, workshops and exhibitions of varying artforms to showcase local creative talent and diverse community groups.
24. Coordinating an Art Award is a large undertaking, irrespective of its scale. Program development, promotion and launch, application assessment, hiring a curator, event management for the awards ceremony and exhibition, seeking sponsorship support and prizes, additional workshop programs, event wrap up and review are just some of the duties required.

25. Art Award options and associated costings are provided in Table 2 below.

Table 2 – Art Award Options and Costings

Option	Financial Implication	Resourcing	Notes
1. Continue Arts Season and implementation of Arts and Culture Plan	\$50,000 project cost + existing staff wages (\$53,345.76).	Currently 0.6FTE	Delivery of this option requires the 0.6FTE to be at capacity, noting that only 50% of the Plan is proposed to be delivered this financial year.
2. Replace Arts Season with Art Awards	\$50,000 project cost + existing staff wages (\$53,345.76) + additional 1xFTE (\$88,909.60).	1 x FTE and 1 x 0.6 FTE and curator (contractor)	This option is based on benchmarking with like LGAs resourcing for delivery of an Art Award.
3. Alternate Arts Season and Art Awards	\$50,000 project cost + existing staff wages (\$53,345.76) + casual 0.6FTE (\$53,345.76)	2 x 0.6 FTE, and curator (contractor approximately \$7,000).	Quotes for curator are estimated based on other LGA Art Award costs.
4. Continue with Arts Season, with addition of a small Community Art Awards	\$50,000 Arts Season + \$30,000 Community Arts Awards existing staff wages + additional 0.6FTE (\$53,345.76)	1 x FTE and 1 x 0.6 FTE	Art Award would be for community, residents and schools. Small prizes.

26. Continuing to facilitate Arts Season, as part of the Arts and Culture Plan, without the addition of further large scale works such as an Art Award, provides a clear pathway of activities, development, and engagement which can be aligned with available resources.

27. Whilst the Arts and Culture Plan refers to an Art Awards as a means to *“Provide opportunities for locals to showcase creative pursuits”*, it does so under the assumption that the Arts Development Officer position is 1 FTE. Currently the Arts Development Officer position is 0.6 FTE resulting in a reduced delivery capacity of the existing plan as it stands.

28. This resource level / output capacity has been reflected in the current CEO KPI related to Arts and Culture Plan delivery, with a target of 50% completion established.

29. Establishment of an Art Award, in place of Arts Season, could exclude a wide part of the community, particularly those groups who collaborate to bring people together a broad spectrum of art forms. This awareness would be diminished should the focus be narrowed.

30. Establishment of an Art Award to complement the existing Arts Season, without reduction in other Arts and Culture Plan deliverables and provision of additional resources, would result in a significant workload impact for the Arts Development Officer, Coordinator Events, Arts and Funding, as well as the Stakeholder Relations team.

31. If Council were supportive of both an Art Award and Art Season, and Arts and Culture Plan deliverables were reduced, additional FTE and a curator would still be required to assist delivery of both programs due to the high level of intensive workload. This aspect has been benchmarking through engagement with other local government authorities (Attachment 2).
32. The following tables outline the pros and cons of the Art Awards and Arts Season.

Table 3 – Art Awards Pros and Cons

Art Awards	Pros	Cons
	<p>Showcases wider WA artists by providing an exhibiting opportunity.</p> <p>Prize money provides income to winning artists.</p> <p>Provides the community with a public exhibition of contemporary art.</p> <p>Acquisition Award could boost collection.</p> <p>Exhibition could bring more people to the Town</p> <p>Ability to focus award categories (First nations, youth, residents etc)</p>	<p>Town lacks a suitable venue to host large exhibition. Options are the Town’s Administration Function Room (size, appeal and impact of Town business / meetings) or Vic Park Centre for the Arts (venue size).</p> <p>Inadequate resources (staff and budget) to deliver Art Awards.</p> <p>Visual arts focused.</p> <p>Not community led.</p> <p>The Exhibition is usually between 10 and 14 days only.</p> <p>Only a small number of artists benefit from the Awards, and we cannot guarantee that majority would be local residents.</p>

Table 4 – Art Season Pros and Cons

Art Season	Pros	Cons
	<p>Celebrates local creatives, artists, and innovators.</p> <p>Inclusive community led events and activities.</p> <p>Multiple events over a one-month period, with a unique programme each year.</p> <p>Increases opportunities for local collaboration and partnership between the Town, local creatives, arts organisations, and community.</p> <p>Opportunity for innovative, outside the box events/activations.</p>	<p>Application process can be deemed as intimidating to artists and needs a review. Timing of application submission is built around council report deadlines, which can impact on programming.</p> <p>Relatively low budget art programme. Grant allocation is often exhausted with just a few projects.</p>

33. Based on the research undertaken, feedback from Elected Members, current resourcing, prioritisation within the existing Arts and Culture Plan, and pros and cons of various options, Officers recommend Option 1 – Continue Arts Season and implementation of the Arts and Culture Plan.

Relevant documents

[Arts and Culture Plan 2020 - 2025](#)

[Policy 112 – Visual Arts](#)

13 Chief Operations Officer reports

13.1 12 Lathlain Place - Removal of Caveat

Location	Lathlain
Reporting officer	Manager Property Development and Leasing
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">1. CONFIDENTIAL - Contract of Sale - 12 Lathlain Place - Palmgate Nominees [13.1.1 - 37 pages]2. Request for removal of Caveat - 20 July 2022 [13.1.2 - 1 page]3. Request for removal of Caveat - 21 November 2022 [13.1.3 - 1 page]4. 12 Lathlain Place LATHLAIN - Occupancy Permit issued [13.1.4 - 3 pages]

Recommendation

That Council:

1. Approve the withdrawal of caveat for 12 Lathlain Place, Lathlain in accordance with the terms and conditions of the Contract of Sale (Attachment 1).
2. Authorise the Chief Executive Officer to execute all necessary documents to effect the withdrawal of caveat for 12 Lathlain Place, Lathlain.
3. Authorise the Chief Executive Officer and the Mayor too, if necessary, apply the common seal to all necessary documents to give effect to the withdrawal of caveat for 12 Lathlain Place, Lathlain.

Purpose

Council authority is sought to grant a request for the withdrawal of the Town's caveat over 12 Lathlain Place, Lathlain, further to a request from Palmgate Nominees Pty Ltd (the 'Buyer').

In brief

- 12 Lathlain Place, Lathlain (the Land) was purchased by the Buyer from the Town of Victoria Park on 14 June 2018.
- The contract of sale (the Contract) imposed certain development obligations on the Buyer, the performance of which are secured by a caveat registered in the Town's favour over the Landgate title to the Land.
- The Buyer has developed the Land and has made a formal request for the Town to withdraw the caveat.

Background

1. At the Ordinary Council meeting held on 12 June 2018, Council resolved as follows:-

1. That Council authorises the sale of lot 59, 12 Lathlain Place, Lathlain, to Palmgate Nominees Pt Ltd for consideration of \$1,100,000 plus GST subject to: 1.1 Conditions of the sale:

1.1.1 No single storey development can be undertaken; and

1.1.2 Development Application (DA) to be lodged within 9 months of settlement ; and

1.1.3 Substantial Commencement of development within 24 months; and

1.1.4 Practical Completion of the development within 36 months.

2. All proceeds from the sale of Lot 59, 12 Lathlain Place, Lathlain, be placed in the Land Asset Reserve Fund.

3. The Mayor and the Chief Executive Officer be authorised to execute all necessary documentation to effect the sale of Lot 59, 12 Lathlain Place, Lathlain, to Palmgate Nominees Pty Ltd.

2. The Buyer purchased the Land from the Town of Victoria Park on 14 June 2018 in terms of the Contract.
3. Further to the terms of the above Council resolution, the Contract included development obligations on the Buyer, with the Town having the right to place an absolute caveat against the Landgate Certificate of Title to the Land, for the purpose of the Town securing the Buyer's performance of development obligations under the Contract. On settlement, an absolute caveat was lodged by the Town against the Landgate Certificate of Title to the Land.
4. The Buyer has developed the Land and requested permanent withdrawal of the Town's absolute caveat.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	Town has undertaken due diligence as set out in this report, including as to the terms of the Council resolution dated 12 June 2018, the terms of the Contract, consultation with Development Services and liaison with the Buyer, in order to provide a recommendation to approve the withdrawal of the caveat.

Environment	
Community priority	Intended public value outcome or impact
EN5 - Providing facilities that are well-built and well-maintained.	Further to the Council's requirements, the Land has been developed to provide community benefits and activation with services such as a Day Care Centre. The Town has determined that the development of the Land is in accordance with the Development Approval and that the Day Care Centre on the ground and the first floor has been completed in accordance with the Building Permit.

Engagement

Internal engagement	
Stakeholder	Comments
Manager Development Services	The development has been completed in compliance with the development approval and conditions.

Manager Building Services	To my knowledge, the Day Care Centre has been completed in accordance with the Building Permit issued on 19/11/2020. I understand the building has been designed and constructed with three floor levels however the Day Care Centre in question only occupies the first two levels, that being ground floor and first floor. We have issued an Occupancy Permit for the Day Care Centre on 7 July 2022 which includes the ground floor and first floor. Please note the second floor will require a further Building Permit at such time prior to this level being completed in the future.
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Legal compliance

Not applicable

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not approving withdrawal of the caveat without a valid reason could expose the Town to risk of legal costs if the applicant were to challenge this.	Minor	Unlikely	Low	Low	Treat risk by approving request to withdraw caveat.
Environmental	Not applicable.				Medium	
Health and safety	Health and safety risk arising due to works not been carried out under Building and Planning requirements.	Low	Possible	Low	Low	Treat risk by engaging with teams within the Town to determine that planning and building requirements have been met.
Infrastructure/ ICT systems/ utilities	Not applicable.					
Legislative compliance	Not applicable.					
Reputation	Not approving withdrawal of the caveat (for example, on the basis of a	Low	Possible	Low	Low	Treat risk by approving the caveat withdrawal having regard to the due diligence

	technicality such as requiring a building permit for the second floor) might be perceived adversely, which may impact Town reputation.	advised in this report, including that the Buyer has exceeded the minimum requirement under the Contract to develop (2) two storeys/levels.
Service delivery	Not applicable.	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation. The removal of caveat will be at the Town's cost in accordance with the Contract. There is budget for the Town to engage its lawyer to draft and lodge the caveat removal.
Future budget impact	Not applicable.

Analysis

5. Further to the Ordinary resolution of Council dated 12 June 2018, the Contract provided for the Buyer to have the following development obligations towards the Town as Seller:-

7. Development of the Land

The Buyer COVENANTS AND AGREES with the Seller that:

- (a) any development on the Land shall be a minimum of (2) two storeys/levels;*
- (b) it shall not develop nor permit the development of the Land into a singular residential dwelling;*
- (c) it shall lodge an application for planning approval in respect of the Land within 9 months of Settlement;*
- (d) subject to receipt of any necessary planning approvals and building permits, the Buyer shall at its cost develop the Land in accordance with any development approval issued in respect of the Land by the Seller acting in its capacity as the responsible local government (Approved Development) and shall substantially commence construction of the Approved Development within 2 years of the issue of the date of a planning approval for the Approved Development; and*
- (e) it shall ensure that the Approved Development is constructed in accordance with all statutory requirements.*

8. Construction of Development

The Buyer COVENANTS AND AGREES with the Seller that:

- (a) it shall at its cost construct the Approved Development on the Land in accordance with any planning approval issued in respect of the Land by the Seller in accordance with the timeframes specified in sub-clause 7(d) of this Contract; and*

(b) It shall ensure that the Approved Development is constructed in accordance with all statutory requirements within 3 years of the date of Building Approval."

6. Clauses 7 and 8 of the Contract are linked to enforcement provisions in favour of the Town under clauses 15, 17 and 18.
7. In a letter addressed to the Town on 20 July 2022, the Buyer advised that the requirements and conditions of the Contract had been met and requested the Town to initiate permanent withdrawal of its absolute caveat in accordance with clause 17(b) of the Contract (Attachment 2).
8. It was confirmed by the Town's Development Services that not all items were in compliance with the conditions of the Development Approval (DA). The Buyer was therefore notified to complete and confirm in due course.
9. A letter dated 21 November 2022 requesting the removal of caveat was issued to the Town by the Buyer to request that the caveat is removed in accordance with the Contract clause 17 (Attachment 3).
10. The Town's Development Services have followed up to secure compliance with a condition of the Development Approval requiring the installation of tactile material on the external ramp. This work has been completed by the Buyer in February 2023, therefore satisfying the last outstanding non-compliant condition of the Development Approval (DA). Development Services advised on 23 February 2023 that they are satisfied the Land has been developed in compliance with Planning requirements.
11. As the building has been designed and constructed on the Land with three floor levels (ground floor, first floor and second floor), the Buyer has exceeded the minimum requirement under the Contract to develop (2) two storeys/levels. The second floor will require a further Building Permit prior to this level being completed in the future. There may be a technicality as to whether or not under the terms of the Contract, the Town could insist on a further building permit for the second floor, prior to agreeing to withdraw the caveat. It is also noted that clause 17(b) of the Contract includes a provision that the Town shall not unreasonably withhold nor delay the withdrawal of caveat. If on weighing up such considerations, the Council is minded to agree to the withdrawal of the caveat, the Buyer will remain responsible under building legislation to obtain an applicable building permit(s) according to the final use of the second floor. It is therefore recommended that the Council agrees at this time to withdraw the caveat.

Relevant documents

Not applicable.

13.2 Edward Millen Redevelopment Progress Report and Variation Request

Location	East Victoria Park
Reporting officer	Strategic Projects Manager
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council:

1. Notes the information and updates in relation to the Edward Millen Redevelopment Project, as contained within this report.
2. Accepts the value management redesign scope, as detailed in this Report.
3. Approves the Edward Millen Park Value Management Re-Documentation Variation of \$79,185 (excluding GST).
4. Notes that \$100,000 has been allocated as part of the 2022/23 Mid-Year Budget Review for the Value Management Redocumentation Variation, Heritage Impact Statements and costing analysis.

Purpose

To present an update to Council for the Edward Millen Adaptive Heritage Redevelopment Project and seek approval of a scope and contract variation for value management redocumentation.

In brief

Edward Millen House Adaptive Heritage Redevelopment Project:

- Negotiations of the Agreement for Lease and Lease of the Edward Millen House to Blackoak Capital have been prolonged and are nearing resolution.
- Progress on the design of the adaptive reuse of the heritage buildings has been on hold while lease negotiations progress.

Edward Millen Park Redevelopment Project:

- A detailed scope of design changes has been developed to bring the construction cost of the project within Council's endorsed budget.
- A variation of \$79,185+GST has been received to conduct the redocumentation from the design consultant team. This variation is more than 10% of the original contract value.
- In accordance with the current Town of Victoria Park Register of Delegations and Sub-Delegations clause 12a, variations of a formal Request for tender contract that exceeds 10% of the contract value requires approval from Council to proceed.

Background

1. At its meeting held on 18 February 2020 Council approved the Edward Millen Park Masterplan and agreed to proceed to detailed design, with the requirement to “include an option for a water play space/feature”.
2. On 19 May 2020, Council acknowledged that further investigation into a water feature for Edward Millen Park Masterplan has been completed, and approved the Edward Millen Park Masterplan to proceed to detailed design without a water play/space feature.
3. The Detailed Design Tender was approved in June 2020 with a design team led by Hassell Studio.
4. 18 May 2021 OCM item 13.3 was provided to Council to approve the detailed design documentation of the Edward Millen Reserve. The cost estimate for the detailed design provided in the report was \$9.1 million, with escalation due to local and international market conditions, inclusive of labour and materials cost increases. Council requested that an options analysis be undertaken to show the impact of the total construction, to cost no more than \$6 million and no more than \$7 million.
5. In July 2021 Council requested a tender documentation set be created for a \$7.5 million budget and a second tender documentation set at a higher cost that would be reliant on the sourcing of additional funding.
6. In July 2021 Council noted that the Edward Millen Park Tender would be released at the most appropriate time to complement the Adaptive Heritage Redevelopment of the Edward Millen Buildings.
7. The final tender documentation was received by the Town in May 2022. As per the July 2021 Council endorsement, two sets were received the \$7.5 million option and the higher cost option. During the design process in October 2021, these were estimated at \$6.4 and \$9.1 million ex GST.
8. The tender documentation received in May 2022 did not have an accompanying updated cost estimate. This cost analysis was subsequently conducted and has been received by the Town in September 2022. Due to the extreme construction industry cost escalation experienced in 2021 and 2022, the cost estimates for the tender documentation packages were \$8.8 million and \$11 million ex GST.

Strategic alignment

Environment	
Community priority	Intended public value outcome or impact
EN1 - Protecting and enhancing the natural environment.	The redesign scope includes a change to utilise the Town’s Urban Ecosystem approach which will increase the amount of ecosystem services delivered by the project.
EN4 - Increasing and improving public open spaces.	The redesign scope will ensure the delivery of the project achieves the communities' expectations of the project to transform Edward Millen Park into a contemporary, high-quality, active park within the requested budget.

Engagement

Internal engagement	
Stakeholder	Comments

Parks maintenance coordinator	Comments on the design have been incorporated into the redesign scope.
Irrigation Team	Comments on the design have been incorporated into the redesign scope.
Urban Ecosystem team	Comments on the design have been incorporated into the redesign scope.
Urban Forest Team	Comments on the design have been incorporated into the redesign scope.
Public Art team	Comments on the design have been incorporated into the redesign scope.

Other engagement

Stakeholder	Comments
Autism Association of Western Australia	Following meetings and documentation review, some comments have been included in the design scope and others have guided the project approach.
Heritage Council of Western Australia	Following meetings and documentation review, some comments have been included in the design scope and others have guided the project approach.
Mindeera Advisory Group	The detailed design has been presented to the Mindeera Advisory Group 3 times and the group has been influential in the development of the approach to the inclusion of indigenous cultural representation in the process.

Legal compliance

Not applicable

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not undergoing a value management design round could lead to the park delivery being well in excess of the endorsed budget.	Moderate	Likely	High	Low	TREAT risk by Undergoing design changes to reduce the cost without significant loss of proposed functions.
Environmental	Not redesigning to utilise the Town's Urban Ecosystem Programs' approach will be a lost opportunity to	Minor	Likely		Medium	TREAT risk through redesigning project to utilise the Town's Urban Ecosystem Program's techniques and approaches.

	improve the projects environmental benefits.					
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	Proceeding with the current design will deliver heritage interpretation elements that omit pre-European heritage of the site.	Moderate	Likely	High	Low	TREAT through redesign to facilitate the recognition of ongoing Indigenous cultural significance of the site through art and interpretation.
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	<p>Sufficient funds do not exist within the annual budget. It is proposed that funding will be acquired through:</p> <ul style="list-style-type: none"> • Mid-Year Budget review allocation.
Future budget impact	<p>The redesign is expected to reduce the construction cost of the park from the estimated \$8.8m+GST to within the construction budget of \$7.5m</p>

Analysis

Edward Millen House Adaptive Heritage Redevelopment Project:

9. Negotiations of the Agreement for Lease and Lease of the Edward Millen House to Blackoak Capital have been prolonged and are nearing resolution.
10. Progress on the design of the adaptive reuse of the heritage buildings has been placed on hold by Blackoak while lease negotiations progress.
11. Some recent agreements have been reached with Blackoak on certain clauses the Town found to be unacceptable, which has provided confidence that an agreed draft AFL and Lease is imminent.

Edward Millen Park:

12. Town officers have completed the development of a detailed scope for redesign and redocumentation to bring the project within the July 2021 endorsed budget of \$7.5 million.

13. The development of this scope included detailed review and workshopping with the Autism Association of Western Australia, the Heritage Council of Western Australia, The Town's Parks, Irrigation, Urban Forest, Urban Ecosystem and Public Art teams and the Mindeera Advisory Group.
14. The redesign also presents an opportunity to include an indigenous cultural component to the park through public art. The spatial requirements for this will be included in the redesign scope and the park construction. However, the public art procurement process and delivery will occur separately.
15. Another opportunity is the adoption of the Town's Urban Ecosystem approach to the proposed garden bed areas. This would expand the ecosystem services of the site and act as an extension of the Hillview Terrace bushland ecosystem, increasing the environmental benefits of the project.
16. The inclusion of an urban ecosystem approach suits planting via community planting days which will increase community ownership and connection to the park while providing a celebratory moment for the park redevelopment completion.
17. The Urban Ecosystem approach will however leave large areas of mulch at the completion of the park construction project while the garden beds await community planting.
18. Additional changes have been proposed and will be further explored that improve the access and inclusion outcome on-site through the removal of stairs.
19. The redesign will include a tree impact review and explore opportunities to minimise the impact on healthy trees, particularly those of high ecological or heritage significance.
20. The value management redesign scope was presented to Hassell, and action was agreed to for each redesign scope component. The Redesign Scope table captures the value management redesign scope and design team comment:

Redesign Scope

	Description	Action
Cost Reduction		
1	Remove all elements beyond site boundary and show black oak path and separable portion.	Documentation to be revised. Clarity required with regards to separation of electrical, hydraulic and irrigation services between Blackoak and Park portions.
2	Remove demolition of existing building from contract (Town to conduct directly)	Documentation to be revised.
3	Remove all shrub planting	Planting areas to be shown as "Urban Eco-system areas" and specified as cultivated beds with mulch. Planting to be removed from schedules.
4	Tree removal and pruning by Town as forward works	No drawing revision required only to be separately delivered as forward works under separate contract arrangement.
5	Change from decorative to coloured concrete	Drawings and specification to be amended to coloured concrete and maintain cream effect
6	Review steel bollards and consider change to plastic replas where suitable.	Extent of plastic and steel (drop-down) bollards to be reviewed.
7	Remove art panels in shade structures	Documentation to be revised.

8	Change playground fence to black cyclone fencing (bar at top and bottom)	Documentation to be revised.
9	Remove LWE003 walls near toilet (~14m)	Review will be conducted with a view to omitting the walls where not required for retaining.
10	Remove Stairs 1 and 2 (and realign align path with stair 1 connection point). Add required walkways to replace stairs. Remove wing walls and hand rails associated with stairs.	These design requirements will be reviewed and a sketch plan prepared for approval prior to re-documentation.
11	Reduce new turf by 25%, and replace with increased retained turf area	Documentation to be revised.
12	Remove heritage interpretation text in paving	Documentation to be revised.
13	Trees reduced to 45L size	Documentation to be revised.
Separable Portions		
14	Create separable Portion 1 - Blackoak Lease Area Path. This portion will be paid for and potentially delivered by Blackoak.	Documentation to be revised.
15	Create separable Portion 2 -Plinth, spectrum shelter and connecting path. This portion will only be delivered if construction is within budget.	Documentation to be revised.
Public Art and Indigenous Culture:		
16	Include Soft Path concept and expand garden bed area to Hillview Terrace. Develop a design solution for integrating the "soft path" with hardstand path to connect to Blackoak lease area. Explore continuation of garden beds along "soft Path" for connection to Hillview terrace bushland. Art and Interpretation as separate stage to follow main park construction.	These design requirements will be reviewed and a sketch plan prepared for approval prior to re-documentation.
Autism Association of WA:		
17	Change stethoscope so it looks like a generic play element.	reference to 'Stethoscope' name will be removed and the three end pieces omitted.
18	Can hand dryer be removed?	To be reviewed
19	Can additional panels be added to the cubbies to increase enclosure?	These design requirements will be reviewed and a sketch plan prepared for approval prior to re-documentation.
20	Update Playground communication board and add sensory mapping to the overall map. Icons for each element, repeated on map and on individual element sign.	Further discussion is required on this element. Confirmation required to confirm specific signs and quantity impacted. Further engagement with Autism WA recommended to confirm requirements.

21	Individual play element signs – add sensory focus Vestibular (balance and movement), Proprioception (pushing, pulling, regulation), touch, hearing sight.	These design requirements will be reviewed and a sketch plan prepared for approval prior to re-documentation. Further engagement with Autism WA recommended to confirm requirements
Parks Department		
22	Vehicle access across site should be considered, ie crossing points at paths.	Diagram to be provided that shows the areas which can accommodate vehicles for maintenance. general arrangement of the design.
23	Mowing kerbs required between all lawn and garden bed areas.	Sketch to be prepared for confirmation and updating of documentation.
Irrigation		
24	Review location of iron filter and irrigation compound, include main line for future extension to Blackoak lease area. Include fertigation unit. Retain existing irrigation cabinet. Review and ensure design is to Town specification. Utilise HDPE in playground area and under infrastructure.	Irrigation changes to be developed with irrigation consultant, reviewed by ToVP and documentation revised.
Urban Ecosystems		
25	All planting areas suitable to be urban ecosystem zones. Two types of zones to be created, High and low profile. Park construction contract to create beds and mulch zones only. Planting will then occur with community planting days. Weed control and spraying out of lawn to occur once design drawings are confirmed.	Remove all planting design from the documentation. The planting beds shown as mulch areas will be noted as High Profile or Standard UE areas with irrigation documentation amended to suit. We will prepare a sketch first for confirmation prior to re-documentation.

21. A variation quote was requested from Hassell to deliver the agreed actions and was received as a fee letter on 23 February 2023. This fee letter quoted a lump sum of \$79,185+GST.
22. A detailed breakdown of the fee is not included in this report in the interest of not disclosing commercial in-confidence information while maintaining the public nature of this report.
23. The schedule of rates that the value of the variation is based upon has been compared to recent tender submissions from comparable design consultancies. This comparison found that the rates proposed are in keeping with current market rates.
24. It was not deemed appropriate to request additional quotes for the redesign work from other design teams. Any new consultant would require full redocumentation services as they would not have progressed the design to this stage.

Relevant documents

[Edward Millen Park Masterplan](#)

13.3 Lathlain Park Redevelopment Project Zone 1 - PFC Lease Update

Location	Lathlain
Reporting officer	Strategic Projects Manager
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council:

1. That Council notes the progress update on the negotiation of draft key lease terms with Perth Football Club.
2. Requests a further update be reported to Council as to progress with negotiation of draft key lease terms with Perth Football Club by June 2023.

Purpose

An update is provided on the lease negotiations for the Perth Football Club to occupy the future facility developed with the Lathlain Park Redevelopment Project – Zone 1 project.

In brief

- As required in council resolution 284/2022 from December 2022, this report provides an update on the lease negotiations with Perth Football Club (PFC).
- Social impact capability and reporting requirements associated with the lease terms have been explored with the PFC.
- Building asset renewal and maintenance, specific to the proposed facility have been explored and discussed with the PFC.
- The Town has requested formalised Social Impact capability statements and Rent capability statements from the PFC and awaits submission of these documents before an update to the current draft lease terms can be completed and presented to Council.

Background

1. The Town has commenced negotiations with PFC to prepare a non-binding draft of Key Terms. In due course, the draft Key Terms will inform future consideration of leasing arrangements by Council.
2. As per Council Resolution 271/2022, an update of these negotiations was presented to Council at the December 2022 OCM and included the current draft key terms as an attachment.
3. The Town has had positive outcomes to mutual understanding from regular meetings and communications with the PFC stakeholders to openly discuss the requirements of the proposed lease at the proposed redevelopment of the facility.
4. Proposed draft Key Terms for the AFL has been drafted in collaboration with PFC and include consideration of the following;
 - (a) Council Resolution 271/2022.
 - (b) Policy 310 – Leasing.
 - (c) PFC lease terms for their current lease.

- (d) Social impact investment by the Town in relation to renting capability.
 - (e) Commercial terms in relation to the financial position and ongoing assessment of turnover on its bar and function sales with provision for annual audited financial statements and percentage rent considerations.
 - (f) Maintenance responsibilities and requirements for long-term reserve funds to be maintained by PFC from the presentation of a maintenance plan. Further, an Asset Management Plan is to be drafted on completion of the development and annexed to any lease thereafter, outlining the responsibilities of each party and outlining its obligations.
 - (g) PFC Liquor Licensing requirements and obligations.
 - (h) Consideration of PFC grants and funding being received.
 - (i) Agreement for proposed shared community uses of the new facility to align with the Town's Social Infrastructure Strategy 2022.
 - (j) Roles and responsibilities for management of the facility.
 - (k) Future Council consideration and requirement for a resolution approving proposed leasing terms.
 - (l) Local Government Act compliance.
 - (m) Conclusion of appropriate lease documentation drafted by the Town's lawyers to the Town's satisfaction and executed by all parties.
5. It is proposed that PFC be required to provide a submission for Council consideration to align with a Qualitative Assessment Criteria to align with the above and outline its business structure, rental capabilities, address of social impact value and outlining its activities, programs and services to be operated from the facility as well as demonstrating their relevant experience/s.
 6. The PFC sent a letter to the Town on 14 November 2022 proposing a "Term of Life" for the lease in recognition of their 64-year tenure at Lathlain Park within the Town. This is found at Attachment 3 of this report.
 7. Following further discussion at a meeting to follow the abovementioned correspondence, PFC requested a 50-year lease term with 3 further 10-year options. At this stage, PFC's request is noted in the draft Key terms together with the Council usual requirements under Policy 310 - Leasing.
 8. The negotiations have been stipulated to be non-binding. The Town is working through the draft key terms together with PFC and will report further to Council in due course.

Strategic alignment

Environment	
Community priority	Intended public value outcome or impact
EN3 - Enhancing and enabling liveability through planning, urban design and development.	Finalising LPRP redevelopment project and improving the amenity and experience of local and national football.
EN5 - Providing facilities that are well-built and well-maintained.	Ensuring a lease arrangement that supports the longevity of the Perth Football Club and appropriate conditions that accommodate the ongoing maintenance of the asset.

Engagement

Internal engagement	
Stakeholder	Comments
Property Development and leasing	Property Development and Leasing have been leading the negotiations and drafting of non-binding draft key terms for the proposed lease.
Strategic Assets	The Coordinator of Strategic Assets has been involved in the negotiation process and provided technical costings for likely asset maintenance requirements.
Project Management Office	The Strategic Projects manager has been involved in the negotiations as it is connected to the design and delivery of the new PFC facility.

External engagement	
Stakeholders	Perth Football Club
Period of engagement	Regular meetings since October
Level of engagement	3. Involve
Methods of engagement	Project representatives and the Chief Executive Officer have been involved in regular meetings with Town Officers
Advertising	None.
Submission summary	N/A
Key findings	PFC have briefed Town Officers on their Social Impact capabilities through their various programs. They have also described the nature of their operations and the effect of rent payments on their financial position.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not insisting on a	Major	Possible	High	Low	TREAT risk by

	rent capability report from the lessee is likely to compromise the Town's ability to assess the lessee's capacity to meet rental obligations.					obtaining reports to facilitate a more informed decision on proposed lease terms.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ ICT systems/ utilities	Not applicable.					
Legislative compliance	Not applicable.					
Reputation	Having the regard to the scale of the Town's proposed investment in the new facility, a failure to require the lessee to provide social impact capability statements and rent capability statements could lead to criticism of the Town's decision-making processes.	Major	Possible	High	Low	TREAT risk by obtaining reports to facilitate a more informed decision on proposed lease terms.
Service delivery	Failing to require PFC to provide the social impact report and rent capability report may negatively impact the Town's ability to facilitate social benefits from this investment.	Moderate	Possible	Medium	Medium	TREAT risk by obtaining reports to facilitate a more informed decision on proposed lease terms.

Financial implications

Current budget impact

Sufficient funds exist within the annual budget to address this recommendation.

Future budget impact	Future budget impact will be known with progression of the negotiations of lease and commercial terms with the Perth Football Club.

Analysis

9. Since October 2022 negotiations have continued with regular meetings and correspondence between Town Officers and representatives of the Perth Football Club.
10. Social impact capability and reporting requirements associated with the lease terms have been explored with the PFC. A presentation of PFC's current social impact programs and capacity was delivered to officers.
11. Building asset renewal and maintenance, specific to the proposed facility have been explored and discussed with the PFC.
12. A Rent Capability Statement was requested from PFC in November 2022. The Town is awaiting this document.
13. A Social Impact Capability Statement describing the PFC's current social programs has been requested to help inform officer recommendations and elected member decisions. The Town is awaiting such documentation.
14. In a meeting with Town Officers on February 24, 2023, the PFC was advised this information was the crucial next step enabling the presentation of draft Key Lease Terms to Council.
15. The PFC has committed to providing the documentation by April 2023 so updated draft terms can be presented to Council as an update in June 2023.

Relevant documents

Not applicable.

13.4 Proposed Lease Disposal of Cafe Space at Aqualife

Location	East Victoria Park
Reporting officer	Property Development & Leasing Officer
Responsible officer	Property Development and Leasing Manager
Voting requirement	Absolute majority
Attachments	Nil

Recommendation

That Council:

1. Authorises the Chief Executive Officer to advertise by public notice to invite expressions of interest for the disposal of a 60m² cafe for a period of up to five years within the Aqualife Aquatic Centre at 42 Somerset Street, East Victoria Park by way of a lease, with criteria to include that the Town seeks a service provider, community or sporting organisation that would complement the services provided by the Town at the Aqualife Aquatic Centre.
2. Notes that if a preferred proponent is selected by the Council, it will be necessary for the proposed lease to be advertised and to comply with the requirements of section 3.58 of the Local Government Act 1995, unless an exemption applies.
3. Pursuant to Section 5.42 of the Local Government Act 1995, delegates to the Chief Executive Officer authority to issue future public invitations for expressions of interest for leasing of the café space at Aqualife Aquatic Centre, subject to the selection criteria including that the Town seeks a service provider, community or sporting organisation that would complement the services provided by the Town at the Aqualife Aquatic Centre.

Purpose

The purpose of this report is for the Council to consider advertising invitations for expressions of interest for the disposition of a café within Aqualife Aquatic Centre by way of a lease.

In brief

- The Town is the freehold owner of 42 Somerset Street, East Victoria Park on which the Aqualife Aquatic Centre is located.
- A 60m² cafe within the Aqualife Aquatic Centre has become available for lease.
- Policy 310 Leasing provides standard tenure guidelines for lease agreements.
- A local government may dispose of a property by way of a lease in accordance with section 3.58 of the *Local Government Act 1995*.
- The Council, at the Ordinary Council Meeting of 16 August 2022, authorised the Chief Executive to negotiate with Black Bean Coffee Bar, further to Blackbean Coffee Bars application to lease the Aqualife Café. Following these negotiations, Black Bean Coffee Bar advised that they are withdrawing their application to lease.
- This item recommends Council approve the advertising to invite expressions of interest to lease the café space, with a view to the presentation of lease proposals to Council to consider the lease disposition of the 60m² café space within the Aqualife Aquatic Centre.

Background

1. The Aqualife Aquatic Centre is located on Lot 331 on Plan 63589 Certificate of Title Volume 2798 Folio 118 at 42 Somerset Street, East Victoria Park. The land is reserved for Parks and Recreation under the local Town Planning Scheme No. 1.
2. The Aqualife Aquatic Centre provides a range of recreational spaces and related services. The space available for lease disposal is a 60m² café space located near the entrance of the Centre.
3. The Town has now received a new enquiry from a member of the community interested in operating the space as a café.
4. Policy 310 Leasing aims to balance appropriate management and responsible use of the Town's facilities for the benefit of the community and ensures managed properties are appropriately maintained. Well-maintained and managed property assets present a significant benefit to the Council and the community. Any new lease, either for a commercial operator or community group, will be subject to the standard tenure guidelines contained within this policy.

Strategic alignment

Economic	
Community priority	Intended public value outcome or impact
EC2 - Connecting businesses and people to our local activity centre's through place planning and activation.	The operation of a café will activate this currently vacant space and improve services to users of the Aqualife facility.

Engagement

Internal engagement	
Stakeholder	Comments
Leisure Facilities Operations Manager	Support for recommended approach in advertising an invitation for expressions of interest for the disposition of a café within Aqualife Centre by way of a lease.
Manager Community	Support for recommended approach moving forward.
Manager Development Services	No objection.

External engagement	
Stakeholders	Comments
Period of engagement	The leasing opportunity will be marketed to target potential service providers Minimum 3 weeks, estimated at this stage to be from 17 April 2023 to 8 May 2023 (inclusive), with possibility of extension.
Level of engagement	Consult
Methods of engagement	Written Submissions

Advertising	Newspaper advertisement, Town website, Public Notice Boards.
Submission summary	N/A - Not yet advertised

Legal compliance

[Section 3.58 of the *Local Government Act 1995*](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Leaving the café empty will result in a loss of income to the Town.	Insignificant	Likely	Medium	Low	TREAT risk by 1) Advertising expressions of interest and marketing the leasing opportunity. 2) Providing delegation to CEO to initiate future expressions of interest should it be necessary to readvertise the leasing opportunity.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ ICT systems/ utilities	Not applicable.					
Legislative compliance	Failure to comply with s3.58 of the <i>Local Government Act 1995</i> .	Moderate	Unlikely	Low	Low	TREAT risk by following the disposal of the property process in accordance with s3.58 of the <i>Local Government Act 1995</i> .
Reputation	Leaving the café empty may have an impact on the Aqualife facility and	Minor	Possible	Medium	Low	TREAT risk by:- 1. Seeking a tenant who can effectively

	its attractiveness to customers.					manage the café. 2. Granting delegation to CEO to initiate future expressions of interest should it be necessary to readvertise the leasing opportunity
Service delivery	Failure to secure a suitable operator to meet community expectations.	Moderate	Possible	Medium	Low	TREAT risk by securing a suitable operator to ensure service provision for the community.

Financial implications

Current budget impact	<p>Sufficient funds exist within the annual budget to address this recommendation.</p> <p>The town currently does not receive any revenue from the Aqualife café as this space has remained vacant</p>
Future budget impact	<p>The leasing of Aqualife Café will not have any impact on the budget forecast for the current financial year but may serve to provide the Town with an income in subsequent years.</p>

Analysis

5. The café is currently vacant. Subject to a viable operator, the café offers the opportunity to provide a service to the users of the aquatic centre. In the recent past, the café has not functioned as a viable commercial operation. This may perhaps be due to a lack of a continuous flow of patrons, other than weekends and evenings when the facilities are being utilised the most.
6. The officer recommendation supports re-advertising the café space in the open market to the public at large under a lease arrangement, with a view to providing the Council with an opportunity to select the best proponent for the community. Notice inviting expressions of interest will be marketed for a minimum of 21 days.
7. The selection criteria will include that the Town seeks a service provider, community or sporting organisation that would complement the services provided by the Town at the Aqualife Aquatic Centre.
8. In addition, the officer's recommendation seeks authority to implement future expressions of interest (non-binding) for a café tenancy at this premises.
9. In the event that the expression of interest process attracts suitable applicants, a further report will be submitted to Council to seek endorsement to proceed with a lease transaction and any necessary compliance with section 3.58 of the *Local Government Act 1995*.

Relevant documents

Not applicable.

13.5 Petition for Independent Audit by WA State Audit General: Conduct of Agreements and Administration in the Town of Victoria Park. (CR225/2022)

Location	Town-wide
Reporting officer	Manager Property Development and Leasing Manager Infrastructure Operations
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	1. Edward Millen Consultation [13.5.1 - 3 pages] 2. Attachment 3 - Resolution 173 2021 [13.5.2 - 2 pages]

Recommendation

That Council:

1. Note the request in the Petition dated 26 October 2022 received from the Ratepayers Association of Town of Victoria Park Inc for Council to request the Office of the State Auditor General to conduct an independent audit into:
 - a) conduct of agreement to sell 355 Shepperton Road East Victoria Park;
 - b) conduct of agreement to lease Edward Millen House and adjoining land;
 - c) overall administration of the Burswood Lakes lots 1 to 25 development site and the associated contractual obligations in regard to maintenance;
2. Decline the request for the Office of the State Auditor General to conduct an independent audit into three matters listed in part 1 above, as it considers the Town has acted within its statutory obligations.

Purpose

To respond to the petition dated 26 October 2022 received from the Ratepayers Association of Town of Victoria Park Inc.

In brief

- The Ratepayers Association of Town of Victoria Park Inc. submitted the attached petition of electors to Council dated 26 October 2022 (the Petition) (Attachment 1).
- The Petition includes a request that the Council as a matter of urgency requests the Office of the State Auditor General to conduct an independent audit into three matters listed in the Petition.
- The Petition was received by Council at its meeting on 13 December 2022 by resolution 225/2022.
- This report is in response to the Petition.
- Having regard to this report, it is considered the Town has acted responsibly, lawfully and with regard to public duty, that is subject to aspects of local government operations, commercial and legal confidentiality.

Background

1. The Petition was signed by 95 persons and included the following:-

"We, the undersigned eligible voters of the Town of Victoria Park, in accordance with Clause 35 of the meeting procedures local law 2019, petition the Council of the Town of Victoria Park to immediately request that the WA State Audit General conduct an independent audit into the following matters:

1. Conduct of agreement to sell 355 Shepperton Road East Victoria Park
2. Conduct of agreement to lease Edward Millen House and adjoining land
3. Overall administration of the Burswood Lakes lots 1 to 25 development site and the associated contractual obligations in regards to maintenance."

2. At its meeting on 13 December 2022, Council resolved by resolution 225/2022:-

That Council receives the petition from the Ratepayers Association of Town of Victoria Park Inc. requesting that the Council as a matter of urgency request the office of the State Auditor General to conduct an independent audit into the following matters:

1. Agreement to sell 355 Shepperton Road, East Victoria Park
2. Agreement to lease Edward Millen House and adjoining land
3. Overall administration of the Burswood Lakes lots 1 to 25 development site and the associated contractual obligations in regards to maintenance

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	The proposed sale and lease transactions will generate income from existing land resources for reinvestment into projects for the public benefit.
CL2 - Communication and engagement with the community.	The matters referred to in this report have been the subject of numerous public reporting where not subject to confidentiality.
CL3 - Accountability and good governance.	The matters referred to in this report have been the subject of numerous public reporting where not subject to confidentiality.

Economic	
Community priority	Intended public value outcome or impact
EC1 - Facilitating a strong local economy.	The proposed sale and lease transactions will generate income from existing land resources for reinvestment into projects for the public benefit.

Engagement

Internal engagement	
Stakeholder	Comments

Manager Property Development and Leasing	Comments incorporated within the report.
Manager Infrastructure Operations	Comments incorporated within the report.

Legal compliance

[Clause 35 of the Town of Victoria Park Meeting Procedures Local Law 2019](#)

[Section 3.58 of the Local Government Act 1995](#) Section 3.58 of the Local Government Act 1995

[Section 3.59 of the Local Government Act 1995](#)

Risk management consideration

Risk Table - Conduct of agreement to sell 355 Shepperton Road East Victoria Park

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	The proposed sale price of \$3,821,000 is in excess of the value as assessed by four valuations. Referring the proposed sale of land for an external audit may give rise to a deferral of action to progress the proposed sale and may risk any prospect of achievement of this significant financial consideration.	Severe	Possible	High	Low	TREAT risk by (1) not referring to external audit; (2) continuing to seek to progress sale in accordance with statutory requirements and legal advice.
Environmental	N/A					
Health and safety	N/A					
Infrastructure/ ICT systems/ utilities	N/A					
Legislative compliance	A failure to comply with a legislative requirement for the	Moderate	Rare	Low	Low	TREAT risk by repeating compliance with

	proposed sale, for example section 3.58 of the <i>Local Government Act 1995</i> .					3.58 of the <i>Local Government Act 1995</i> , in the event that action to progress the proposed sale is successful.
Reputation	The simple fact of receipt of the petition, the associated required reporting and potential associated publicity are likely to impact (or have the potential to further impact) the Town's reputation.	Moderate	Almost certain	High	Low	TREAT risk by responding to petition as set out in this report and as recommended.
Service delivery	Realisation of the proposed sale price of \$3,821,000 will achieve significant financial consideration that can be reinvested by the Council into service delivery. Referring the proposed sale of land for an external audit may give rise to a deferral of action to progress the proposed sale.	Minor	Unlikely	Low	Medium	TREAT risk by (1) not referring to external audit; (2) continuing to seek to progress sale in accordance with statutory requirements and with legal advice.

Risk Table - Agreement to lease Edward Millen House and adjoining land

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	The proposed lease will generate \$2,000,000 of upfront income to the Town for reinvestment into the Edward Millen Park. Referring the proposed lease for an external audit	Severe	Possible	High	Low	TREAT risks by (1) not referring to external audit; (2) continuing to seek to progress lease in accordance with statutory requirements and legal advice.

	<p>may give rise to a deferral of action to progress the proposed lease and may risk any prospect of achievement of this significant financial consideration. If project becomes delayed or is not achieved then the Town will carry the cost of maintaining and securing the property out of ratepayer receipts.</p>					
Environmental	<p>The Mildred Creek Building, which is one of the group of buildings to be leased, contains a significant amount of fractured asbestos. This is an environmental risk that requires appropriate removal.</p>	Moderate	Possible	Medium	Medium	TREAT risk by seeking a lease that includes the safe removal of all asbestos from the site.
Health and safety	<p>The Edward Millen Home buildings have been deemed unsafe for public occupation due to their poor condition.</p>	Severe	Unlikely	High	Low	AVOID immediate risk by fencing off the site and preventing public access to the buildings until restoration of the buildings can occur.
Infrastructure/ ICT systems/ utilities	N/A					
Legislative compliance	<p>A failure to comply with a legislative requirement for the conclusion of the proposed lease, for example section 3.58 and/or Section 3.59 of the Local Government Act 1995.</p>	Moderate	Rare	Low	Low	TREAT risk by continuing review of proposed transaction in order to arrive at reviewed transaction terms that can be recommended to Council for

						consideration. Review amended transaction terms to confirm necessary compliance with the requirements of the Local Government Act 1995.
Reputation	Receipt of the petition and potential associated publicity is an event that has the potential to impact on the Town's reputation.	Moderate	Almost certain	High	Low	TREAT risk by responding to petition as set out in this report.
Service delivery	The proposed lease will generate \$2,000,000 of upfront income to the Town for reinvestment into the Edward Millen Park. Referring the proposed lease for an external audit may give rise to a deferral of action to progress the proposed lease and may risk any prospect of achievement of the upgrade of Edward Millen Park or require that the upgrade is funded out of receipts from ratepayers.	Minor	Unlikely	Low	Medium	TREAT risk by (1) not referring to external audit; (2) continuing to seek to progress lease in accordance with statutory requirements and legal advice.

Risk Table - Burswood Lakes lots 1 to 25 development site and the associated contractual obligations in regards to maintenance

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Petition asserts belief that Town's	Moderate	Likely	High	Low	TREAT risk by continuing

	conduct is not motivated by best outcome for the Town's residents.					negotiations with developer and keeping Council informed.
Environmental	Public Open Space (POS) becomes fire risk or weed infested.	Moderate	Likely	High	Medium	TREAT risk by continuing maintenance
Health and safety	N/A				Low	
Infrastructure/ ICT systems/ utilities	N/A				Medium	
Legislative compliance	N/A				Low	
Reputation	Receipt of the petition and potential associated publicity is an event that has the potential to impact on the Town's reputation.	Moderate	Possible	Medium	Low	TREAT risk by responding to petition as set out in this report.
Service delivery	Service standard in high profile area drops resulting in poorer condition POS.	Moderate	Likely	High	Medium	TREAT risk by continuing maintenance

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- Paragraphs [2-7] address 355 Shepperton Road East Victoria Park, paragraphs [8-13] address the Agreement to lease Edward Millen House and adjoining land and paragraphs [17 – 21] address Burswood Lakes lots 1 to 25 development site and the associated contractual obligations in regard to maintenance.

4. The proposed agreement to sell 355 Shepperton Road East Victoria Park and/or the related closure of part of ROW 54 have been extensively reported to Council, for example:-
 - (a) Ordinary Council Meeting, 20 August 2019 (resolution 166/2019);
 - (b) Ordinary Council Meeting, 19 November 2019 (Council resolution 244/2019);
 - (c) Ordinary Council Meeting, 15 September 2020 (Council resolution 514/2020);
 - (d) Ordinary Council Meeting, 17 November 2020 (Council resolution 556/2020);
 - (e) Ordinary Council Meeting, 15 June 2021 (Council resolution 118/2021);
 - (f) Ordinary Council Meeting, 21 September 2021 (Council resolution 206/2021);
 - (g) Ordinary Council Meeting, 18 October 2022 (Council resolution 210/2022).
5. As reported in the minutes of the Ordinary Council Meeting, 19 November 2019 (Council resolution 244/2019), the proposed sale to Fabcot of 355-357 Shepperton Road East Victoria was:-
 - (a) Advertised by the Town further to Section 3.58 of the Local Government Act 1995, with a Public Notice in the West Australian, Public Notice exhibited to the public on the notice board at the Town's office, Library and Town's website and in a 'Your Thoughts' eNewsletter;
 - (b) 29 Submissions were received, of which 25 objected, and 4 supported the proposal.
 - (c) The submissions were considered and responses were provided in an attachment to the Council report;
 - (d) A Business Case was developed and provided to Elected Members for consideration. The business case explored the following options:
 - (i) Option 1: Do Nothing.
 - (ii) Option 2: Hypothetical Development.
 - (iii) Option 3: Ground Lease.
 - (iv) Option 4: Unsolicited Bid (proposed sale to Fabcot).
 - (v) Option 5: Open Market Sale.
 - (e) The recommended option was Option 4 the acceptance of the Unsolicited Bid. With the consideration of the alternative Options analysed, the value proposed at \$3,821,000 excl GST was the highest value outcome for the Town.
 - (f) Paragraph 9 of the report at Agenda Item 13.1 of the Council minutes the subject of Council resolution 210/2022 provided:
6. As noted above, the contract entered into between the Town and Fabcot is confidential. The Town has liaised with Fabcot to seek consent to make disclosures. Consent has been provided by Fabcot for the Town to make the following limited public disclosures:
 - (a) The contract date on which the contract was signed by both parties was 20 December 2019;
 - (b) In recent discussions between the Town and Fabcot, both parties have indicated they wish to continue on the basis outlined in the latest (expired) Contract of Sale;
 - (c) At this time, the sale of the property has not been settled. As the time frames in the contract and its subsequent extensions have expired, it will not be possible to settle the sale of the property, unless a legally valid and binding extension to the contract is in place and lawfully entered into. The Town is 77 of 126 working with Fabcot and the Town's lawyers to establish the terms for such an extension, which would also need to be acceptable to Council.
7. The proposed sale of 355-357 Shepperton Road and associated matters have therefore been the subject of statutory compliance as well as additional public disclosures through numerous Council reports.
8. The proposed sale price of \$3,821,000 is in excess of three valuations obtained by the Town and one valuation obtained by Fabcot. Whilst the contract entered into between the Town and Fabcot is confidential, the Town has obtained consent from Fabcot to limited public disclosures noted above, including disclosure of Fabcot's valuation information.

9. As reported to the 18 October 2022 Council meeting, the time frames in the contract and its subsequent extensions have expired and it will not be possible to settle the sale of the property unless a legally valid and binding extension to the contract is in place and lawfully entered into.
10. Having regard to the above, it is considered that the Town has acted responsibly, lawfully and with regard to public disclosures, in the course of handling this sensitive high-value transaction that is protected by commercial confidentiality.
11. With regard to the proposed Agreement to lease Edward Millen House and adjoining land, Attachment 2 contains a very brief summary of the significant and extended public consultations, decision making and other activities that the Town has undertaken over an extended period of time dating back to 2017.
12. At the Special Council Meeting held on 2 August 2021, the Council resolved by resolution 173/2021 to proceed with the proposed lease transaction for the Edward Millen Adaptive Heritage Redevelopment Ground Lease. Resolution 173/2021 included a detailed framework of controls within which the proposed lease transaction could be negotiated and progressed. Resolution 173/2021 is somewhat lengthy and a copy is provided in Attachment 3.
13. Resolution 173/2021 included a requirement for the proposed lease transaction to be advertised under section 3.58 of the Local Government Act 1995.
14. Advertisement of the proposed lease transaction under section 3.58 of the Local Government Act 1995 only attracted one submission within the prescribed statutory time period. Notwithstanding this, it became evident to the Town's officers that for a number of reasons, the proposed lease transaction could not be finalised within the detailed framework of controls provided for in Council resolved by resolution 173/2021. A detailed progress report was therefore provided to the Council at its meeting on 17 May 2022.
15. This progress report drew attention to the fact that Blackoak's commercial ground lease offer is confidential and that:-
 - (a) An agreement for lease with an annexed ground lease has been issued to Blackoak.
 - (b) The terms of these have been under negotiation, with the Town having regard to the terms of the Council resolution 173/2021.
 - (c) The agreement for lease is a commercially sensitive, confidential document. The release of its contents has the potential to affect the delivery of the outcomes that the Town is seeking to achieve.
 - (d) The report, therefore, contained limited information as to some (and not all) of the outstanding points of negotiation.
 - (e) Whilst a view can be taken that aspects of Blackoak's requirements are commercially understandable, they relate to matters that are regulated by DPLH Land Management under the LAA, and are outside of the Town's direct control.
16. Some of the proposed revisions have therefore required referral by the Town and Blackoak to DPLH Land Management.
17. The proposed lease transaction has been under review since the end of 2021, with a view to establishing appropriate terms to be considered by Council. Whilst significant progress has been made in negotiating revised terms with Blackoak, no transaction has been entered into. In the event Council approves revised terms, it is envisaged that the revised terms will be considered to identify applicable legal compliance and that appropriate fresh legal compliance will be undertaken on these revised terms, to ensure strict compliance with the requirements of the Local Government Act 1995.
18. No transaction will be entered into without Council approved, legally valid lease documentation that has been lawfully entered into.

19. Having regard to the above, it is considered that the Town has acted responsibly, lawfully and with regard to public disclosures, in the course of handling this sensitive high-value lease transaction that is subject to aspects of commercial confidentiality.
20. Paragraphs 18 – 21 deal with the "Overall administration of the Burswood Lakes lots 1 to 25 development site and the associated contractual obligations in regard to maintenance"
21. Lots 1-25 in the Burswood Peninsula area are separated into Deed and Non-Deed areas relating to maintenance.
22. The Town's position is that the continuing maintenance of POS outside the designated Deed area is not an obligation of the Developer.
23. While the Town has had some items which are "Commercial in Confidence "relating to negotiations for maintenance within the designated deed area, the Council has been well-informed through Concept Forums and Council meetings on multiple occasions.
24. Having regard to the above, it is considered that the Town has acted responsibly, lawfully and with regard to public disclosures, in the course of maintenance of the Public Open Space and associated contractual obligations in relation to Lots 1 – 25 in the Burswood Peninsula that is subject to aspects of commercial and legal confidentiality.

Relevant documents

Not applicable.

13.6 Lighting Activation Projects, response to Notice of Motion

Location	Town-wide
Reporting officer	Manager Infrastructure Operations
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council:

1. Receive the information contained within this report.
 - (a) Acknowledge more detailed information to come back to Council in May 2023.

Purpose

To provide a response to the 13 December 2022 Notice of Motion (NOM), Lighting Activation Projects.

In brief

- A NOM was lodged at the 13 December meeting by Mayor Vernon requesting the Chief Executive Officer (CEO) to investigate feasibility and implementation (including costs) for various lighting projects.
- These included a Street Tree decorative lighting project for:
 - Albany Highway; and
 - Key local activity centres such as Etwell St, Archer St, Oats St, Gallipoli St, and Burswood Rd;
 - a Tree Canopy uplighting project for the gum trees in GO Edwards Park;
 - a Park tree decorative lighting project for key locations;
 - Installation projection lighting projects for Town buildings and/or public open spaces.
- Town Officers sought input from an experienced electrical contractor to provide information. (Details of the contractor's information are an attachment to this report.)
- This report was to come back to Council in March 2023.

Background

1. Over the last couple of years, there have been various suggestions from the Place Planning team for a lighting activation project to install decorative twinkle lights along Albany Highway. Due to competing priorities, such projects have not been advanced into the budget.
2. Following the Notice of Motion in December 2022, Town Officers organized an experienced electrical contractor to assess the suggested sites for feasibility.
3. This included looking at items such as existing structures, power supplies, difficulty in installation, ability to program lighting in-house or at low cost, and potential types of lighting treatment.
4. Town Officers further reviewed the information and provided recommendations based on the contractor's feedback.

Strategic alignment

Economic	
Community priority	Intended public value outcome or impact
EC2 - Connecting businesses and people to our local activity centres through place planning and activation.	Creating attractive and enticing opportunities for people to be outside at night within the Town is beneficial for community and businesses alike.

Environment	
Community priority	Intended public value outcome or impact
EN4 - Increasing and improving public open spaces.	Providing additional lighting as well as decorative lighting helps activate sites and make the area more usable and desirable at night.

Social	
Community priority	Intended public value outcome or impact
S1 - Helping people feel safe.	Additional lighting, even in the form of decorative lighting, illuminates dark places, and will create more opportunities for passive surveillance.

Engagement

Internal engagement	
Stakeholder	Comments
Parks	Review of electrical contractors' information and discussions on individual sites. Provide direction on recommendations.
Engineering	Review of electrical contractors' information and discussions on individual sites. Provide direction on recommendations.
Stakeholder Relations	Review of electrical contractors' information and discussions on individual sites. Provide direction on recommendations.
Place Planning	Review of electrical contractors' information and discussions on individual sites. Provide direction on recommendations.

Other engagement	
Stakeholder	Comments
Electrical Contractor	Provided information on sites including potential Western Power implications

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Proposed lighting installations not appropriately budgeted for.	Moderate	Likely	High	Low	TREAT risk by getting detailed estimates on installation and ongoing costs of lighting maintenance.
Environmental	Lighting in trees pose risk to local fauna.	Moderate	Possible	Medium	Low	TREAT risk by ensuring minimal impact into ecologically important trees.
Health and safety	Lighting in trees pose risk to public.	Moderate	Possible	Medium	Low	TREAT risk by ensuring lighting installed by qualified electrical contractor.
Infrastructure/ ICT systems/ utilities	Unable to access and control lighting programming.	Low	Possible	Low	Medium	Treat risk by ensuring any system control installed are programmable in house.
Legislative compliance	Not applicable.				Low	
Reputation	Not applicable.				Low	
Service delivery	Lights fall into disrepair.	Moderate	Likely	High	Medium	TREAT risk by having regimented testing regime by authorized contractor.

Financial implications

Current budget impact	No impact on current budget
Future budget impact	Funds will be needed to be included in future Capital Works and Maintenance budgets to fund a proposal once costs are known.

Analysis

5. Town Officers reviewed the information provided by the contractor.
6. Various factors were considered including visual impact, anticipated difficulty in installation, exposure, access to power and Western Power requirements. Also considered were the proposed upgrades to Christmas decorations, and how the two projects may interact.
7. Officers considered small precincts in addition to the Albany Highway Café strip.
8. The following sites were considered for further investigation -
 - (a) GO Edwards – line of eucalyptus trees
 - (i) Ensure ToVP are able to control in house
 - (ii) Coloured programmable LED uplights
 - (b) Archer St
 - (i) Two roundabouts
 - (ii) London planes in between
 - (iii) Coloured programmable LED uplights
 - (c) Etwell St
 - (i) Roundabouts
 - (ii) Coloured programmable LED uplights
 - (d) Albany Hwy
 - (i) 4-6 London Planes in each town centre - East Vic Park, Vic Park and St James
 - (ii) Coloured programmable LED uplights
9. Costings have not been provided at this stage as the contractor needed more specific information in order to provide realistic budget estimates.
10. Further investigations are being carried out into the possibility and cost of hiring Christmas decorations, and how the Lighting Activation Project and Christmas decorations may complement one another.
11. It would be proposed to Council that potential upgrades to lighting systems be staged over a number of years.
12. We would recommend multi-coloured uplighting that can be programmed in-house. This would allow Council to change the lighting colours based on themes such as safety week, sporting events, Christmas, Pride week and NAIDOC week. (The Town already do this with the aerator lighting at GO Edwards Park).
13. Further detailed costing and information will come back to Council in May 2023.

Relevant documents

13.7 Developing Impact Reporting on Climate Change

Location	Town-wide
Reporting officer	Environmental Management Officer
Responsible officer	Manager Strategic Waste, Environmental and Asset Management
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council notes the proposed impact reporting for climate change

Purpose

To present to Council the proposed impact reporting for climate change.

In brief

- In 2018 the Town of Victoria Park Council declared a climate emergency for the Town
- In recognition of this declaration to reduce carbon emissions within the region and reduce the adverse impacts of climate change for its residents and the associated environment, a Climate Emergency Plan was prepared for the Town.
- The Climate Emergency Plan (CEP) was endorsed in July 2021. The Town has since been implementing the actions contained within the CEP.
- Associated with the implementation of the Climate Emergency Plan is the below Corporate Business Plan action:
 - *Develop impact reporting on climate change.*
- This report provides an overview to the climate change impact reporting proposed.

Background

1. Considering the concerns of global temperature rise – increasing during 2015-2019 (the warmest five-year period on record according to the World Meteorological Organisation (WMO) - and increased greenhouse gas concentrations to record levels, the potential impacts associated with climate change on the Town of Victoria Park could include:
 - a. Higher risk of bushfire events during summer
 - b. More consecutive hot days and heatwaves
 - c. Lower average rainfall
 - d. Increased intensity of storms, flooding and extreme weather events
2. While carbon dioxide is acknowledged to be an important food source for healthy and growing plants (in situations such as an expanding urban forest), the management of any excess carbon emission would help towards the reduction of the overall carbon footprint of the Town.
3. On 14 August 2018, Council made the following declaration – “That Council: a) Recognizes that there is a state of climate emergency that needs to be handled by all levels of government. b) Endorses

WALGA’s Policy Statement on Climate Change. c) Requests that the Administration create an action plan, in line with WALGA’s Policy Statement on Climate Change...”

4. The Town of Victoria Park’s carbon emissions have been estimated at 23,799 Tonnes per annum based on current calculation methodology. Of this, waste collected by the council contributed to the largest percentage of emissions – 85% or 20,226 Tonnes (Although the Town generates approximately 1% of the total waste footprint, as the Town manages and disposes of community and business waste using the Town’s waste services, all waste emissions are therefore considered the responsibility of the Town) – followed by energy usage of Town facilities – 10.6% or 2,532 Tonnes.
5. In recognition of this declaration and the need to demonstrate leadership to reduce excess carbon emissions within the region and reduce the adverse impacts of climate change for its residents and the associated environment, a CEP was prepared for the Town. The CEP was endorsed in July 2021.
6. The CEP aims to:
 - a. Achieve a zero-carbon target for emissions generated by the Town of Victoria Park by 2030 (The timeframe of 2030 has been chosen because it is the timeframe needed to curb emissions and limit the seriousness of climate change impacts.)
 - b. Achieve at least 40% emissions reduction through direct action (i.e. not through carbon offsets).
 - c. Support the community and businesses in working towards their own zero carbon target.
 - d. Improve the resilience of the Town in responding to immediate climate change impacts.
7. The Town has since been implementing the actions.
8. Associated with the implementation of the CEP is the following Corporate Business Plan action: *Develop impact reporting on climate change.*
9. This report provides an overview of the climate change impact reporting proposed.

Strategic alignment

Environment	
Community priority	Intended public value outcome or impact
EN2 - Facilitating the reduction of waste.	The CEP aims to reduce waste and the associated emissions of Town of Victoria Park by 50% by 2030 through better waste management systems and processes.
EN3 - Enhancing and enabling liveability through planning, urban design and development.	Improved design of Town streetscapes. Climate change adaptation solutions considered as part of all new infrastructure projects to ensure the most suitable materials and designs are used. Energy audits of all Town buildings and development of an energy efficiency strategy with the aim of achieving energy and cost savings for the Town. Use of alternative waste treatment options including waste to energy technology.
EN5 - Providing facilities that are well-built and well-maintained.	As above.

Engagement

Not applicable.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Environmental	If the Town does not suitably measure and monitor climate impact – and thereby be agile to the results of said reporting – then the Town is at risk of not meeting the goal of zero carbon emissions by 2030. It may also not be able to quantify the impact (positive or negative) on biodiversity and canopy cover.	Severe	Unlikely	High	Medium	Undertake climate impact reporting that encompasses carbon emissions, biodiversity and canopy increase, so that any identified issues can be managed in an agile manner.
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	If the Town does not suitably measure and monitor climate impact – and thereby be agile to the results of said reporting – then the Town is at risk of not properly capturing infrastructure failure, response and necessary improvements.	Severe	Unlikely	High	Medium	Undertake climate impact reporting that encompasses infrastructure, so that any identified issues can be managed in an agile manner.

Legislative compliance	Not applicable.					Low
Reputation	Risk amongst some community members that the Town may be operating outside of its remit, that climate change action is not the role of Local Government.	Moderate	Likely	High	Low	<p>The Town will attempt to bring our community along on the Town's journey through dedicated education programs and engagement in climate change initiatives.</p> <p>The Town will also review the Climate Emergency Plan in 2023, 2027 and 2030, during which time we will ensure that our community are informed and consulted.</p>

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Current indicative cost is that the impact reporting can be undertaken by specialist consultants at a cost of \$15,000/annum.

Analysis

10. This section outlines the proposed scope, deliverables and timing of climate impact reporting.

11. SCOPE:

- a. The CEP includes several Priority Focus Areas, each of which has a Carbon Reduction / Climate Resilience Target. These are respectively outlined in Table 1.
- b. Given the primary aim, the focus of the impact reporting will be greenhouse gas emissions. Included in the calculations will need to be several gases including Carbon Dioxide (CO₂), Methane (CH₄) and Nitrous Oxide (N₂O). Combined, these gases contribute to the greenhouse effect that is creating changes to our climate. The greenhouse gases must be converted to carbon dioxide equivalent or CO₂-e, which is a standardized method of communicating quantities of greenhouse gases based on their global warming potential.
- c. The Town will require measurement of the CO₂-e emissions and an assessment of progress against Carbon Reduction / Climate Resilience Target, including:

- i. The carbon emissions reduction impact of actions that have been implemented on the overall CO2 emissions target.
 - ii. Review the actions under the Climate Emergency Plan, identifying any actions upcoming and ensure that the Town can still meet its objectives under the plan.
- d. In the interest of ensuring consistency with the methodology employed to develop the baseline carbon emissions profile for the Town as an organisation (from FY2019), the emissions calculation method should be based on the National Greenhouse Accounts Factors (Department of Climate Change, Energy, the Environment and Water).
- e. Reporting should also capture Direct and Indirect emissions. Direct emissions refer to sources that are owned and controlled by the Town; Indirect emissions are as a result of activities undertaken by the Town but occur at sources owned and controlled by an external entity.
- f. Further, direct and indirect emissions must be grouped into three scopes, which are:
- i. Scope 1: All direct emissions from owned or controlled sources of the council
 - ii. Scope 2: Indirect emissions from the use of purchased energy (e.g. electricity)
 - iii. Scope 3: Other indirect emissions (excluded from scope 2) from the production of purchased materials or services.

Table 1 - CEP Priority Focus Areas and Emissions Targets

Priority Areas	Carbon Reduction / Climate Resilience Target
1 Embed a low carbon culture	This is a governance priority so while it will result in carbon reduction, no specific target is associated with this priority.
2 Reduce emissions of facilities and assets	The KPI for this priority is a 10% reduction in emissions for facilities and assets, equivalent to a 1% reduction in the Town's emissions.
3 Reduce waste emissions	The KPI for this priority 50% reduction in waste by 2030, equivalent to a 42% reduction in the Town's emissions.
4 Switch to low carbon and renewables	The KPI for this priority 50% reduction in emissions for facilities and assets, equivalent to a 5% reduction in the Town's emissions. Note, our aspirational target is 100% dependent on the findings of future studies.
5 Respond to immediate climate change impacts	To improve the resilience of the Town's assets and infrastructure.
6 Support and educate our community	To assist the community in reducing their own carbon footprint and improving climate resilience.
7 Support and educate our businesses	To assist local businesses in reducing their own carbon footprint and improving climate resilience.
8 Offset residual emissions	The carbon reduction offset priority is intended to offset any residual emissions. This is estimated to be 51% of the Town's emissions in 2030.

12. The essential services and infrastructure the Town provides to the community are also vulnerable to a range of climate hazards.
13. In acknowledgement of the potential impacts from climate change to the Town (e.g. heatwaves and increased urban heat; biodiversity loss as a result of drought, changes in temperature; lower average rainfall; risk to infrastructure as a result of increased intensity of storms, flooding and extreme weather events), further to the above it is also proposed that the Town report on:
 - a. heat mapping and increase in tree canopy;
 - b. infrastructure resilience. (e.g. adapting existing infrastructure to the impact of climate change, such as extreme weather events);
 - c. natural environment (e.g. increase in biodiverse planting in the Town; creation of greening corridors); and
 - d. water conservation.

14. DELIVERABLES:

- a. The below represents the anticipated deliverables from climate impact reporting:
 - i. Complete carbon calculation for the most recent time period (2022/23) and provide a comparison report against the baseline under which the CEP was developed. This will include a comparison of the same parameters, where relevant, that were measured in 2019/20, namely:
 - Electricity and gas usage for all facilities as well as any recent energy audits that were completed
 - ◇ Information about our renewable energy systems and/or green power purchase agreements
 - ◇ Town's fleet, including e-vehicles
 - ◇ Any diesel or gas that generated, if applicable (e.g. diesel generators)
 - ◇ An annual average for any air travel undertaken by Town staff
 - ◇ Estimated annual waste volume and breakdown.
 - Report on the impact of specific actions against Carbon Reduction/Climate Resilience Targets. This may be linked to a high-level dashboard report, with a traffic light status of progress against actions and those requiring urgent or imminent attention.
 - Identification of pending actions upcoming and ensure that the Town can still meet the Carbon Reduction/Climate Resilience Targets and long-term KPIs under the plan.
 - ii. Green House Gas conversion values utilised for standardised reporting will be applied to all data to calculate the overall emissions for the Town. This will be done through specialist consultants.
 - iii. The calculated emissions from the above for any one financial year will then be fed into the Table (Carbon Impact Reporting by Priority Area), below. This will allow for direct comparison between years so that the carbon emissions reduction from the baseline year (2020) can be determined (material change).

Table 2 – Carbon Impact Reporting by Priority Area

Priority Areas	Carbon Footprint	Baseline CO2-e	Carbon Reduction / Climate Resilience Target	KPI	2022/23 CO2-e	Material Change	Actions Undertaken	On target to meet KPI?
1 Embed a low carbon culture	This is a governance priority so has no direct carbon footprint.		This is a governance priority so while it will result in carbon reduction, no specific target is associated with this priority.	<i>The Actions in the Climate Emergency Plan are monitored and implemented over the 10-year duration of the plan.</i>				
2 Reduce emissions of facilities and assets	The estimated carbon footprint for facilities and assets is 15%	2,532 Tonnes CO2-e	The KPI for this priority is a 10% reduction in emissions for facilities and assets, equivalent to a 1% reduction in the Town's emissions.	<i>Reduce the emissions of Town of Victoria Park facilities and assets by 10% by 2030 through improved energy management and energy efficiency measures.</i>				
3 Reduce waste emissions	The estimated carbon footprint for waste is 85% of which the Town is responsible for 0.84%.	20,226 Tonnes CO2-e	The KPI for this priority 50% reduction in waste by 2030, equivalent to a 42% reduction in the Town's emissions.	<i>Reduce the emissions of Town of Victoria Park waste by 50% by 2030 through better waste management</i>				

					<i>systems and processes.</i>				
4	Switch to low carbon and renewables	The estimated carbon footprint for facilities and assets is 15%	2,532 Tonnes CO2-e	The KPI for this priority 50% reduction in emissions for facilities and assets, equivalent to a 5% reduction in the Town's emissions. Note, our aspirational target is 100% dependent on the findings of future studies.	<i>Ensure that at least 50% of council facilities and 50% of vehicles by 2030 are powered by low carbon fuels or renewable energy.</i>				
5	Respond to immediate climate change impacts	This is a climate resilience priority so has no direct carbon footprint.		To improve the resilience of the Town's assets and infrastructure.	<i>Implement the proposed actions to improve the resilience of the Town of Victoria Park</i>				
6	Support and educate our community	This is a community priority so has no direct carbon footprint related to the Town's organisational emissions.		To assist the community in reducing their own carbon footprint and improving climate resilience.	<i>By 2030 greater than 60% of respondents in a community survey indicate that they've taken active steps to</i>				

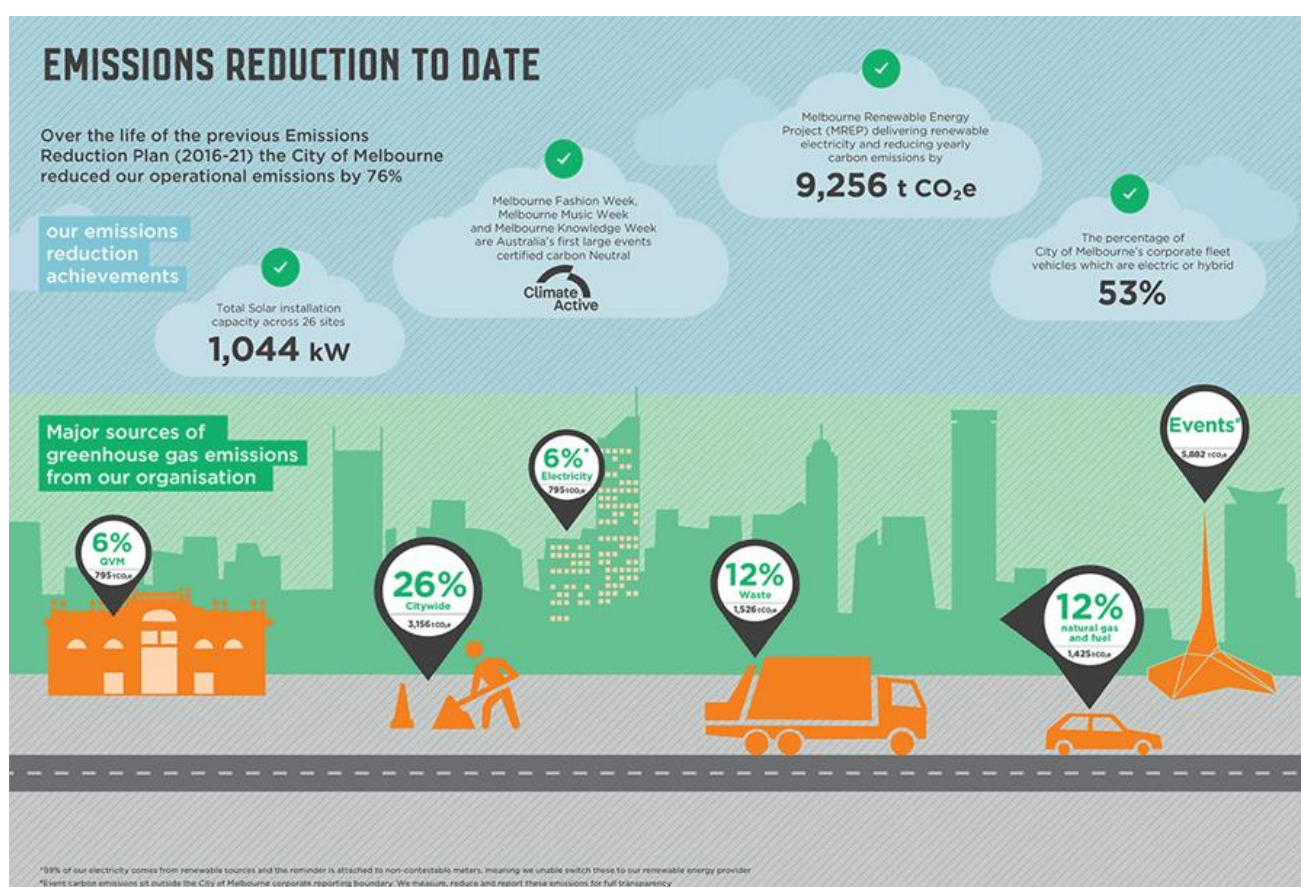
					<i>reduce their household carbon emissions.</i>				
7 Support and educate our businesses	This is a business priority so has no direct carbon footprint related to the Town's organisational emissions.		To assist local businesses in reducing their own carbon footprint and improving climate resilience.	<i>By 2030 greater than 60% of business respondents in a survey indicate that they've taken active steps to reduce their business carbon emissions.</i>					
8 Offset residual emissions	This is a priority related to offsetting the residual carbon footprint. The informal offset from the Town's urban forest is equivalent to a ~6% saving on our carbon footprint.		The carbon reduction offset priority is intended to offset any residual emissions. This is estimated to be 51% of the Town's emissions in 2030.	<i>By 2030 offset any residual emissions to achieve a zero-carbon outcome</i>					

- i. Evidence will also be obtained from existing programs and Service Areas for the below
 - Urban Forest Strategy program - heat mapping and increase in tree canopy;
 - Urban Forest Strategy program, Parks - increase in biodiverse planting in the Town; creation of greening corridors);
 - Parks, Street Improvement, Assets - infrastructure resilience; and
 - Waterwise Council program – water conservation.
- ii. It is proposed that this will be captured in a similar format to Table 3, below.

Table 3 – Climate Change Risks to Local Government

Risk	Reporting frequency	Risk	Risk treatment (e.g. Treat, eliminate)	Actions Undertaken
Urban heat and heatwaves				
Biodiversity loss				
Lower average rainfall				
Infrastructure failure				

- i. Based on the outcomes of the above, the impact reporting could be publicly reported graphically, similar to the below example from City of Melbourne.



15. TIMING OF REPORTS:

- a. Beyond 2022/23 climate impact reports will be produced annually. In order to capture a full financial year, each report will be presented to Council by October.
- b. Note: The Town acknowledges that there has previously been no impact report since the CEP was implemented 2021/22. This was to allow for the development of the Climate Implementation Plan and an establishment period for implementation of the actions.

16. ACHIEVEMENTS:

- a. In lieu of a climate impact report, the below captures some of the achievements and quantified positive climate impacts since the commencement of the Climate Emergency Plan implementation (2021/22).
- b. Power Purchase Agreement - WALGA Energy Project:
 - i. Through this project the Town has eight of our highest energy-consuming facilities powered through 100% green energy (sourced from regional windfarms).
 - ii. Following the close of the third quarter of the WALGA Energy Project the WALGA analysis is below. The Town of Victoria Park is estimated to have saved collectively \$110,166 since the project commencement, saving 792 Tonnes of carbon emissions.

WALGA Member Participant	Natural Power	Savings (\$) Apr to Jun 2022 (Q2)	Savings (\$) Jul to Sep 2022 (Q3)	Savings (\$) Oct to Dec 2022 (Q4)	Total Savings (\$)	Carbon Offsets (Tonnes) (Q2)	Carbon Offsets (Tonnes) (Q3)	Carbon Offsets (Tonnes) (Q4)	Carbon Offsets (Tonnes) (Total)
TOWN OF VICTORIA PARK	100 %	30,932	43,217	36,017	110,166	218	299	275	792

- a. Garden Organics bin system commenced in 2022/23. Since its inception, this has diverted an estimated 1,550 Tonne of organics from landfill with fortnightly garden organics bin collection as well as bulk verge waste collections
- b. 100kW solar systems installed on the Administration and Aqualife buildings.
- c. Three electric vehicles have been purchased in 2022/23.
- d. 24 Town-owned street lighting conversions to LED.
- e. Fleet vehicle emissions offset. 347 Tonnes of emissions saved.
- f. 71 lights replaced to LED in the Administration building.
- g. Park lighting conversions:
 - i. GO Edwards path lighting - 60 watt LED lighting along new path network.
 - ii. Carlisle Reserve – Sport Lighting upgrade to LED.
 - iii. Koolbardi – LED path lighting and sports lighting to the courts.
 - iv. Higgins Park Tennis Club – LED sport lighting to tennis courts and croquet courts.
- h. Partnered with Green Services to provide free energy advice and home audits to our community and businesses.
- i. Established an energy monitoring/quality management system for council buildings (partnership with Climate Change Response).
- j. In partnership with the UFS team, held educational workshops on the value of tree retention, urban farming, and sustainable landscaping, including biophilic design.
- k. Electric vehicle workshop held.
- l. Reusable nappy rebate and workshop program established.
- m. The Town has coordinated a partnership with Climate Clever. This application allows households, businesses and schools to calculate their energy usage (electricity and gas/LPG) and examine usage (and cost) between months and across years.

- n. Preferencing companies that provide carbon neutral office supply products has been integrated into the Town's Procurement Plan.
- o. Established the Green Business Awards.
- p. Conducted awareness-raising for heat waves and flooding (Flood Aware program).
- q. Compost and worm farm trial program for residents.
- r. Green Building Guidance – Green Star and NABERS developed. This provides guidance for future Council owned buildings and assets to meet either:
 - i. A minimum 5 Star Green Star for New Buildings certification from the Green Building Council of Australia (GBCA) or equivalent, or
 - ii. Demonstrate that all minimum requirements under the Green Star for New Buildings Positive category from the GBCA have been met, or
 - iii. A minimum 5 Star NABERS Energy and Waste rating for the commercial office space.
- s. Implemented various Travel Demand Management Initiatives as outlined in the Town's Transport Strategy. Examples include:
 - i. Low Cost Urban Safety Treatment Program - Phase 2 – design process to encourage slower speeds and a safer walking and cycling environment
 - ii. Bone and Upton Street Intersection and Planting – street modifications to encourage a better walking and cycling environment
 - iii. Albany Highway Microspace (Imp Café) – design modifications
 - iv. Victoria Park Drive – New pedestrian footpath, landscaping and irrigation modification to be complete by April 2023.

17. NEXT STEPS

- a. The Town will put together a Request for Quote document, based on the provisions of this report and release to market – March 2023.
- b. Procure consultant – April 2023.
- c. Compile relevant information in liaison with the consultant – May 2023.
- d. Development of draft impact report – July 2023.
- e. Review of impact report by Town – August 2023.
- f. Final impact report – September 2023.
- g. Presentation of report to Council – October 2023.

Relevant documents

Not applicable.

13.8 Proposed Temporary Withdrawal and Reinstatement of Caveat - Reserve 39361

Location	Burswood
Reporting officer	Property Development and Leasing Manager
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">1. Certificate of Title L R 3139-331 Lot 303 Great Eastern Highway BURSWOOD 6100 (004) [13.8.1 - 2 pages]2. Document Caveat M 030672 (003) [13.8.2 - 2 pages]3. Document Caveat I 783565 (004) [13.8.3 - 4 pages]

Recommendation

That Council:

1. Agrees (subject to 2. below), to the temporary withdrawal and reinstatement of the Town's caveat interest over Lot 303 on Deposited Plan 42394 for the purposes of the creation of a power to lease in favour of Burswood Park Board over Lot 2002 on Deposited Plan 414942, such caveat interest currently registered as caveat M030672 and caveat I78356.
2. Legal advice satisfactory to the Chief Executive Officer be obtained from the Town lawyers to confirm that the Town's interest in Lot 303 on Deposited Plan 42394 will not be subject to any unacceptable adverse affect, due to the proposed the withdrawal and reinstatement of the Town's caveat interest.
3. Authorises the Chief Executive Officer to sign all documents necessary to give effect to the proposed temporary withdrawal and reinstatement of the Town's caveat interest as referred to in 1. above.
4. Authorises the Chief Executive Officer and Mayor to, if necessary, apply the common seal to give effect to the proposed temporary withdrawal and reinstatement of the Town's caveat interest as referred to in 1. above.

Purpose

To seek Council approval to the temporary withdrawal and reinstatement of the Town's caveat affecting Reserve 39361 on the Burswood Peninsula.

In brief

- Reserve 39361 on the Burswood Peninsula is a Class C reserve set aside for Parks and Recreation under the Parks and Reserves Act (1895) and is managed and controlled by the Burswood Park Board (the 'Board').
- Reserve 39361 comprises eight lots, including Lot 2002 and Lot 303 against which a caveat has been lodged by the Town of Victoria Park.
- The Board has advised that In order for the State to activate Lot 2002, there will need to be a management order with power to lease under the Land Administration Act 1997 (LAA) granted to the Board.
- The LAA management order is required to be granted to the Board with power to lease over Lot 2002 only - not the entirety of Reserve 39361. The Board advise that the activation of Lot 2002 with a power to lease in favour of the Board in no way affects the Town of Victoria Park's interest in Lot 303, however it is necessary for the Town to agree to lift the caveat over Lot 303 and then immediately replace the

caveat once the management order has been lodged (this can be done as one transaction at Landgate with the documents timestamped). The power to lease on Lot 2002 will be for a period up to 21 years and requires the approval of the Minister for Lands.

Background

14. Reserve 39361 on the Burswood Peninsula is a Class C reserve set aside for Parks and Recreation under the Parks and Reserves Act (1895) and is managed and controlled by the Board.
15. Reserve 39361 comprises eight lots including Lot 2002, (which is the subject of a proposed lease between Burswood Park Board and the third party set out below), and Lot 303 against which a caveat has been lodged by the Town of Victoria Park.
16. Perth Bridge Climb & Zip (PBCZ) trading as Matagarup Bridge Climb & Zip, have been operating a bridge climb and zip line business, which lands in the Burswood Park Reserve in Lot 2002, under a Bridge Activities Agreement (BAA) with Main Roads Western Australia (MRWA) since 2021. They currently operate out of a temporary facility on the Burswood Park Reserve
17. Aligned to the BAA, PBCZ wishes to extend its operations to include a minigolf and permanent operating premises, supported by a small café. This is being progressed in a series of Agreements between, MRWA, PBCZ and the Board.
18. Given the exclusive use required for an agreement to operate these activities in Burwood Park Reserve a lease agreement is envisaged by the Board.
19. The current vesting of control and management pursuant to section 3 of the Parks and Reserves Act 1895 of the Reserve in the Board, does not provide the Board with leasing powers. The power to lease was lost in 2008 when a process to change a vesting order under Land Act to a management order under the Land Administration Act 1997 (LAA) could not proceed due to the Town's caveat against part of the Burswood Park Reserve (Lot 303).
20. In order for the State to activate Lot 2002 there will need to be a management order with power to lease under the Land Administration Act 1997 (LAA) granted to the Board.
21. The LAA management order is required to be granted to the Board with power to lease over Lot 2002 only - not the entirety of Reserve 39361.
22. The activation of Lot 2002 in no way affects the Town of Victoria Park's interest in Lot 303, however it is necessary for the Town to agree to lift the caveat over Lot 303 and then immediately replace the caveat once the management order has been lodged (this can be done as one transaction at Landgate with the documents timestamped).
23. The power to lease on Lot 2002 will be for a period up to 21 years and requires the approval of the Minister for Lands.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	The proposed course of action has been referred for Council consideration in the interests of open and transparent governance of the Town's business operations.

Economic	
Community priority	Intended public value outcome or impact
EC2 - Connecting businesses and people to our local activity centres through place planning and activation.	The proposed course of action will facilitate the extension of operations on Lot 2002 to include a minigolf and permanent operating premises, supported by a small café.

Engagement

Internal engagement	
Stakeholder	Comments
Manager Property Development and Leasing	Comments incorporated within the report.
Manager Strategic Waste, Environment and Asset Management	No objection to this approach

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Loss of the Town's highly valuable interest in Lot 303.	Severe	Rare	Medium	Low	TREAT risk by Internal due diligence and use of the Town's lawyers to confirm correctness of proposed course of action.
Environmental	N/A					
Health and safety	N/A					
Infrastructure/ ICT systems/ utilities	N/A					

Legislative compliance	N/A					
Reputation	Reputational damage due to (1) loss of the Town's highly valuable interest in Lot 303; (2) refusal of the Board's request to create a power to lease and lease transaction to activate Lot 2002 for the public benefit.	Severe	Rare	Medium	Low	TREAT risk by Internal due diligence and use of the Town's lawyers to confirm correctness of proposed course of action.
Service delivery	N/A					

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

24. The Town's interest as caveator is registered on the certificate of title LR3139/331 (Lot 303 on Deposited Plan 42394) as caveat M030672 and caveat I783565 as set out in Attachments 1, 2 and 3.
25. Included in the caveat document for caveat I783565 is an extract graphic from Deposited Plan 242736 showing "Land Around the Dome" only as the hatched in black portion (see final page of Attachment 3).
26. The Town's interest as caveator protects a potentially highly valuable interest of the Town in Lot 303, the realisation of which is contingent on certain events, further to an Agreement made on 5 August 1985 between the City of Perth and The State of Western Australia. The City of Perth's interest in this agreement was transferred to the Town in terms of the City of Perth and Town of Victoria Park (Property Transfer) Order No 1, 1996.
27. Lot 2002 is located on the riverbank, approximately 500 meters away from Lot 303. The Town has no substantive financial/commercial interest in Lot 2002, which is one of eight lots comprising Reserve 39361.
28. The LAA management order is required to be granted to the Board with power to lease over Lot 2002 only - not the entirety of Reserve 39361.
29. The Town's officers see no reason why the proposed creation of a power to lease in favour of the Board (over Lot 2002 only) will affect retention of the Town's caveat interest in Lot 303. The precaution

has however been taken of obtaining legal advice from the Town's lawyers and this precaution is reflected in the recommendation.

30. In order for the power to lease to be created in favour of the Board over Lot 2002, it will be necessary for the Town to agree to lift the caveat over Lot 303 and then immediately replace the caveat once the management order has been lodged.
31. The proposed power to lease on Lot 2002 will be for a period up to 21 years and requires the approval of the Minister for Lands.

Relevant documents

Not applicable.

14 Chief Financial Officer reports

14.1 Mid Year Budget Review 2022 - 2023

Location	Town-wide
Reporting officer	Management Accountant
Responsible officer	Chief Financial Officer
Voting requirement	Absolute majority
Attachments	Annual Budget Review 2022-2023

Recommendation

That Council:

1. Adopts the 2022-2023 Annual Budget Review as contained within the attachments, pursuant to Regulation 33A of the Local Government (Financial Management) Regulations 1996
2. Approves the amendments to the 2022-2023 Annual Budget, detailed in the 2022-2023 Annual Budget Review as contained within attachments, pursuant to section 6.8 of the Local Government Act 1995.

Purpose

The Town has a legislative requirement to report to Council material variances which impact upon the budget and to provide recommendations on how to accommodate variations.

In brief

- The Annual Budget Review is an assessment by Council of how it is financially performing to date and is used to identify variations from the budget by the year end. It may include new works and/or services not identified in the adoption of the budget.
- The review also examines the opening position for the financial year, which is likely to vary between that which is used for the Annual Budget and that which occurs following the Annual Financial Audit.
- Variations to the Annual Budget are addressed in this report, including the funding identified to accommodate these variations.

Background

1. The Local Government (Financial Management) Regulations 1996 require that between 1 January and 31 March in each year, a local government is to carry out a review of its annual budget for that year.
2. The review of the forecast based on the financial statements to 31 January this year has identified areas where revenue and expense budgets will not be met by 30 June this year. Suitable expense savings and/or additional revenue sources have been identified to balance out variations. Funding sources are identified from savings or revenue (in excess of budget) projected to 30 June this year.
3. Additional works and/or services have also been identified and included within the review.
4. The Annual Budget Review for the current financial year is contained within the attachments.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact

CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community.	To make available timely and relevant information on the financial position and performance of the Town so that Council and public can make informed decisions for the future.
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Engagement

Internal engagement	
Service Area Leaders	All Service Area Leaders have reviewed the monthly management reports and provided commentary on any identified material variance relevant to their service area.

Legal compliance

[Regulation 31 of the Local Government \(Financial Management\) Regulations 1996](#)

[Regulation 33A of the Local Government \(Financial Management\) Regulations 1996](#)

[Regulation 34 of the Local Government \(Financial Management\) Regulations 1996](#)

[Section 6.8 \(1\) of the Local Government Act 1995](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Misstatement or significant error in financial statements	Moderate	Unlikely	Medium	Low	Treat risk by ensuring daily and monthly reconciliations are completed. Internal and external audits.
Financial	Fraud or illegal transaction	Severe	Unlikely	High	Low	Treat risk by ensuring stringent internal controls, and segregation of duties to maintain control and conduct internal and

						external audits.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ICT systems/utilities	Not applicable.					
Legislative compliance	Council not accepting financial statements will lead to non-compliance	Major	Unlikely	Medium	Low	Treat risk by providing reasoning and detailed explanations to Council to enable informed decision making. Also provide the Payment summary listing prior to preparation of this report for comments.

Financial implications

Current budget impact	<p>A report on significant variances expected to 30 June this financial year, including explanation of the variances, is contained within the attachment. All revenue and expense variances have been balanced with a net variance of \$nil.</p> <p>Variations to the Annual Budget, as outlined in the Review, have been made with regard to asset management requirements and principles. The proposed review will form the new budget once adopted.</p>
Future budget impact	Not applicable.

Analysis

5. The review seeks to identify and quantify:
- the forecast year-end major variances from the Town's adopted budget.
 - the actual opening position versus the budgeted opening position. The report then makes recommendations as to what action should be taken (if any) to address that change in the forecast yearend position.
 - the forecast year-end surplus/deficit position, having regard for the above points. The report then makes recommendation as to what action should be taken (if any) to address that change in the forecast year end position.

6. The review process has been undertaken having regard for:
 - (a) actual revenues and expenses for the first seven months of this financial year together with committed expenses
 - (b) forecast revenue and expense levels for the remaining four months of the financial year.
 - (c) the completion of the annual financial year audit from the previous financial year
 - (d) the more significant (in \$ terms) variances to budget rather than the many minor 'under and overs' that, history has shown, will largely balance out.
7. The review:
 - (a) reports a forecast \$nil year-end surplus variance to the budget (a combination of revenue and expense items)
 - (b) provides explanatory commentary on the major forecast variances to budget.
 - (c) is inclusive of the previous year-end closing position variance to budget, for Council's consideration and determination.
8. The Annual Budget Review has had input from all management levels at the Town, with Senior Management supporting the values as included in the review.
9. Accordingly, it is therefore recommended that the review be accepted and the associated budgetary changes be approved.

Relevant documents

Not applicable.

14.2 Schedule of Accounts - January 2023

Location	Town-wide
Reporting officer	Financial Services Controller
Responsible officer	Chief Financial Officer
Voting requirement	Simple Majority
Attachments	1. Payment Summary - January 2023 [14.2.1 - 7 pages]

Recommendation

That Council:

1. Confirms the accounts for January 2023, as included in the attachment, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.
2. Confirms the direct lodgement of payroll payments to the personal bank accounts of employees, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

Purpose

To present the payments made from the municipal fund and the trust fund for the month ended January 2023.

In brief

- Council is required to confirm payments made from the municipal fund and the trust fund each month, under Section 13 of the *Local Government (Financial Management) Regulations 1996*.
- The information required for Council to confirm the payments made is included in the attachment.

Background

1. Council has delegated the Chief Executive Officer the authority to make payments from the municipal and trust funds in accordance with the *Local Government (Financial Management) Regulations 1996*.
2. Under Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, where a local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, each payment is to be noted on a list compiled for each month showing:
 - (a) the payee's name
 - (b) the amount of the payment
 - (c) the date of the payment
 - (d) sufficient information to identify the transaction
3. That payment list should then be presented at the next ordinary meeting of the Council, following the preparation of the list, and recorded in the minutes of the meeting at which it is presented.
4. The payment list and the associated report was previously presented to the Finance and Audit Committee. Given this Committee's scope has changed to focus more on the audit function, the payment listings will be forwarded to the Elected Members ahead of time. Any questions received prior to the finalisation of the report will be included along with the responses within the Schedule of Accounts report for that month.

5. The list of accounts paid in accordance with Regulation 13 of the Local Government (Financial Management) Regulations 1996 is contained within the attachment and is summarised below.

Fund	Reference	Amounts
Municipal Account		
Automatic Cheques Drawn		\$62.81
Creditors – EFT Payments		\$2,732,019.88
Payroll		\$1,764,711.81
Bank Fees		\$12,647.59
Corporate MasterCard		\$3,129.42
Cancelled EFTS		(\$8,694.35)
Total		\$4,503,877.16

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL2 - Communication and engagement with the community.	The monthly payment summary listing of all payments made by the Town during the reporting month from its municipal fund and trust fund provides transparency into the financial operations of the Town.
CL3 - Accountability and good governance.	The presentation of the payment listing to Council is a requirement of Regulation 13 of <i>Local Government (Financial Management) Regulation 1996</i> .

Legal compliance

[Section 6.10\(d\) of the Local Government Act 1995](#)

[Regulation 13 of the Local Government \(Financial Management\) Regulation 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Misstatement or significant error in financial statements.	Moderate	Unlikely	Medium	Low	Treat risk by ensuring daily and monthly reconciliations are completed. Internal and external audits.

Financial	Fraud or illegal transaction.	Severe	Unlikely	High	Low	Treat risk by ensuring stringent internal controls, and segregation of duties to maintain control and conduct internal and external audits.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ICT systems/utilities	Not applicable.					
Legislative compliance	Council not accepting financial statements will lead to non-compliance	Major	Unlikely	Medium	Low	Treat risk by providing reasoning and detailed explanations to Council to enable informed decision making. Also provide the Payment summary listing prior to preparation of this report for comments.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- All accounts paid have been duly incurred and authorised for payment as per approved purchasing and payment procedures. It is therefore requested that Council confirm the payments, as included in the attachments.

Relevant documents

[Procurement Policy](#)

14.3 Financial Statements- January 2023

Location	Town-wide
Reporting officer	Financial Services Controller
Responsible officer	Chief Financial Officer
Voting requirement	Simple majority
Attachments	1. Financial Activity Statement Report - January 2023 [14.3.1 - 46 pages]

Recommendation

That Council accepts the Financial Activity Statement Report – 31 January 2023, as attached.

Purpose

To present the statement of financial activity reporting on the revenue and expenditure for the period ended 31 January 2023.

In brief

- The financial activity statement report is presented for the month ending 31 January 2023.
- The report complies with the requirements of Regulation 34 (financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*.
- The financial information as shown in this report does not include a number of end-of-financial year adjustments that are still yet to occur, as well as the final approval by the Auditor. The figures stated should therefore not be taken as the Town's final financial position for the period ended 31 January 2023.

Background

1. Regulation 34 of the *Local Government (Financial Management) Regulations 1996* states that each month, officers are required to prepare monthly financial reports covering prescribed information, and present these to Council for acceptance. Number all paragraphs from here on, not including tables.
2. As part of the monthly financial reports, material variances are reported. Thresholds are set by Council and are as follows:

Revenue

Operating revenue and non-operating revenue – material variances are identified where, for the period being reported, the actual varies to the budget by an amount of (+) or (-) \$25,000 and, in these instances, an explanatory comment has been provided.

Expense

Operating expense, capital expense and non-operating expense – material variances are identified where, for the period being reported, the actual varies to the budget by an amount of (+) or (-) \$25,000 and in these instances, an explanatory comment has been provided.

3. For the purposes of explaining each material variance, a three-part approach has been applied. The parts are:

Period variation

Relates specifically to the value of the variance between the budget and actual figures for the period of the report.

Primary reason(s)

Explains the primary reason(s) for the period variance. Minor contributing factors are not reported.

End-of-year budget impact

Forecasts the likely financial impact on the end-of-year financial position. It is important to note that figures in this part are 'indicative only' at the time of reporting and may subsequently change prior to the end of the financial year.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL2 - Communication and engagement with the community.	To make available timely and relevant information on the financial position and performance of the Town so that Council and public can make informed decisions for the future.
CL3 - Accountability and good governance.	Ensure the Town meets its legislative responsibility in accordance with Regulation 34 of the <i>Local Government (Financial Management) Regulations 1996</i> .

Engagement

Internal engagement	
Service Area Leaders	All Service Area Leaders have reviewed the monthly management reports and provided commentary on any identified material variance relevant to their service area.

Legal compliance

[Regulation 34 of the Local Government \(Financial Management\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Misstatement or significant error in financial statements.	Moderate	Unlikely	Medium	Low	Treat risk by ensuring daily and monthly reconciliations are completed. Internal and external audits.

Financial	Fraud or illegal transaction.	Severe	Unlikely	High	Low	Treat risk by ensuring stringent internal controls, and segregation of duties to maintain control and conduct internal and external audits.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ICT systems/utilities	Not applicable.					
Legislative compliance	Council not accepting financial statements will lead to non-compliance.	Major	Unlikely	Medium	Low	Treat risk by providing reasoning and detailed explanations to Council to enable informed decision making. Also provide the Payment summary listing prior to preparation of this report for comments.

Financial implications

Current budget impact	Commentary around the current budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.
Future budget impact	Commentary around the future budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.

Analysis

- The Financial Activity Statement Report – 31 January complies with the requirements of Regulation 34 (Financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*. It is therefore recommended that the Financial Activity Statement Report January 2023 be accepted.

Relevant documents

Not applicable.

14.4 Loading Bay on 660 Albany Hwy

Location	Victoria Park
Reporting officer	Supervisor Parking and Rangers
Responsible officer	Coordinator Parking and Rangers
Voting requirement	Simple majority
Attachments	1. 660 Albany Hwy - Loading Zone (Final) [14.4.1 - 1 page]

Recommendation

That Council approve the request from Celsius Property, representatives of the Council of Owners of Vic Quarter (Council of Owners) to change parking restrictions of two parking bays on 660 Albany Highway to allow for a loading zone during the hours of 7:30am – 10:30am.

Purpose

To seek Council approval to change a parking restriction of two bays at 660 Albany Highway to accommodate a loading zone, 7:30am – 10:30am.

In brief

- Celsius Property contacted the Town on behalf of the Council of Owners of Vic Quarter (Council of Owners) on 10 November 2022 requesting a loading zone be installed on Miller Street.
- The Town responded to the request on 15 November 2022 stating Miller Street would not be suitable. The Town proposed sharing the current bays at 660 Albany Highway.
- On 22 December 2022 Celsius Property provided the Town with the Council of Owners Meeting Minutes that the Council of owners supported the Towns proposal with an extended time of 7:30am – 10:30am.
- The Town determined the extension would be acceptable (7:30am - 10:30am).

Background

1. Celsius Property contacted the Town on behalf of the Council of Owners on 10 November 2022 requesting a loading zone be installed on Miller Street.
2. Celsius Property stated that the building receives a number of deliveries from a commercial perspective as well as residential. Due to weight restrictions (stemming from the buildings suspended slab), making deliveries to some commercial operators challenging. Additionally, the complex is subject to regular move-in's and move-out's.
3. The Town considered the request and due to traffic and geometric conditions on Albany Highway and Miller Street, a loading bay on Miller Street would not be supported.
4. On 15 November the Town suggested that converting two parking bays (2P Ticket 8:00AM – 8:00PM) on Albany Highway to be dual use and becoming loading zone bays from 7:30am – 9:30am and paid parking from 9:30am – 8:00pm as a suitable option.
5. On 6 December Celsius Property responded to the Town stating that Council of Owners agreed the proposed dual use bays on Albany Highway was a viable option but requested the loading zone time be extended to 7:30am – 10:00am.

6. On 15 December 2022 the Town responded to Celsius Property providing support to the extended loading zone time of 7:30am – 10:30am. The Town requested a copy of the Council of Owners meeting minutes that confirmed acceptance of the Towns suggestion.
7. The minutes were provided to the Town via email on 22 December 2022 by Celsius Property. Celsius Property were informed that the request would need to be approved by Council.
8. The parking bays between 640-660 Albany Highway underwent an occupancy review conducted by the Town, utilizing data from six parking meters for 33 parking bays. The review period was from 8:00 am to 11:00 am to align with the proposed loading zone time of 7:30 am to 10:30 am.
9. The results of the review indicated that the lowest occupancy was recorded at 8:00 am at 34%, while the highest occupancy was recorded at 11:00 am at 63%. At peak times, 21 bays were occupied, leaving 12 bays available.

Strategic alignment

Environment	
Community priority	Intended public value outcome or impact
EN6 - Improving how people get around the Town.	Provide safe vehicle access for residents, businesses and pedestrians.

Engagement

Internal engagement	
Stakeholder	Comments
Street Improvement	Street Improvement reviewed the request and provided options that would provide a suitable option for the Town and the residents of Vic Quarter.
Parking and Rangers	Liaised with Street Improvement and obtained advice on suitable locations for a loading zone in the area that would meet the needs of the residents of Vic Quarter.

Other engagement	
Stakeholder	Comments
Celsius Property	Contacted the Town via email on behalf of the Council of Owners to request a loading zone be installed.
Council of Owners	Council of Owners suggested extending the time of the loading zone to 7:30am – 10:30am. Meeting minutes provided.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Replacement of paid parking might represent a financial loss.	Minor	Likely	Medium	Low	Restrict Loading Zone time to minimum necessary
Environmental	Not Applicable				Medium	
Health and safety	Not Applicable				Low	
Infrastructure/ ICT systems/ utilities	Not Applicable				Medium	
Legislative compliance	Not Applicable				Low	
Reputation	Negative perception towards the Town if it is not approved.	Minor	Possible	Moderate	Low	Change the restriction to the two bays to become dual use.
Service delivery	Not Applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not Applicable.

Analysis

10. Celsius Property and the Council of Owners requested to install a loading zone. There are no loading zones on Albany Highway near 660 Albany Highway. There is a loading zone on Tuam street, however the Town would not recommend the use of this loading zone as it would require regular crossing of Albany Highway to service 660 Albany Highway.
11. It will provide a time restricted designated loading bay for the unloading and loading of commercial vehicles that may require additional space (moving trucks and vans).
12. Providing a loading zone will not only service the residents of Vic Quarter but the nearby businesses as well. The loading zone will not impact parking revenue as occupancy peaked at 11:00am at 63% percent with 12 bays still being available to the public. If the loading zone was implemented, it would reduce the available bays to 10 during the peak time of the loading zone restriction.

13. Street Improvement and Parking and Rangers have reviewed the request and supports its implementation.

Relevant documents

Not applicable.

15 Committee reports

15.1 Internal Audit Report - Misuse of Assets & Resources

Location	Town-wide
Reporting officer	Manager Governance and Strategy
Responsible officer	Chief Executive Officer
Voting requirement	Simple majority
Attachments	1. CONFIDENTIAL - Misuse Assets Resources Report [15.1.1 - 16 pages]

Recommendation from the Audit and Risk Committee:

That Council:

1. Notes that an internal audit on misuse of the Town's assets & resources was conducted that resulted in the identification of one high-risk matter, one medium-risk matter and five low-risk matters as set out in the attached Confidential Misuse Assets Resources Report.
2. Endorses management's proposed actions to address the identified risks as set out in the Confidential Misuse Assets Resources Report.
3. Requests the Chief Executive Officer to provide an Internal Audit Activity Completion Report to the Committee by no later than 30 June 2023 as to completion of management's actions as set out in the Confidential Misuse Assets Resources Report.

Purpose

To inform Council of the outcome of the misuse of assets & resources audit.

In brief

- An audit on misuse of the Town's assets & resources was completed in 2022.
- The audit identified one high-risk matter, one medium-risk matter and five low-risk matters.
- The confidential audit report details all findings and actions to improve or rectify the findings.

Background

1. An audit on misuse of the Town's assets & resources was included in the 2021-2022 internal audit program, adopted by Council in September 2021.
2. Auditors were engaged to complete the audit focusing on the appropriateness and effectiveness of the Town's systems and procedures in relation to the misuse of assets and resources.
3. The final report that is an attachment to this item was received in January 2023.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	Internal audits promote integrity and identify areas for improvement.
CL3 - Accountability and good governance.	Internal audits allow for an assessment of whether legislation, policies and practices are being followed to ensure intended outcomes are achieved.

Engagement

Internal engagement	
Stakeholder	Comments
Technology & Digital Strategy	Provided the information requested and comments on the draft audit report.
Financial Services	
Technical Services	

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	Not applicable.				Low	
Service	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

4. The audit identified one high-risk matter, one medium-risk matter and five low-risk matters.
5. All matters identified will be addressed in accordance with management comments by the target completion date.
6. An Internal Audit Activity Report summarising the status of all medium and high-risk findings will be provided to a future Audit and Risk Committee.

Relevant documents

[Internal Audit Program 2021-2022](#)

Further consideration

7. At the Audit and Risk Committee meeting held on 13 February 2023 the Presiding Member directed for the Chief Financial Officer to take on notice whether the audits referred to in items 5.1.1 and 5.1.2 had been completed and when.
8. Confirmation has been received that the matters raised in 5.1.1 and 5.1.2 have been completed by 31 November 2022.

15.2 Audit Committee meeting dates for 2023

Location	Town-wide
Reporting officer	Manager Governance and Strategy
Responsible officer	Chief Executive Officer
Voting requirement	Simple majority
Attachments	Nil

Recommendation from the Audit and Risk Committee:

That Council schedules its future meetings to be held on:

1. 19 June 2023
2. 13 November 2023.

Purpose

To set the future meeting dates for the Audit and Risk Committee.

In brief

- The Audit and Risk Committee, through recommendations, provides guidance and assistance to Council in fulfilling its governance and oversight responsibilities in relation to financial reporting, internal control, risk management and external audit.
- The committee's terms of reference allow the committee to set their meeting schedule.
- The dates recommended have been proposed to allow the Audit and Risk Committee to perform their functions.
- If other matters arise that need to be considered by the Audit and Risk Committee, the Town will liaise with the committee's chair to organise a meeting of the committee.

Background

1. In line with the Local Government (Audit) Regulations 1996, the purpose of the Audit Committee is to:
 - a) Support council in fulfilling its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems and external audit functions and ethical accountability.
 - b) Critically examine the audit and management reports from external audits and ensure that the Town appropriately implements any actions.
 - c) Receive and review reports prepared by the Chief Executive Officer in accordance with the Regulations and present a report back to Council on its findings and recommendations.
2. The role of the committee is to provide guidance and assistance to Council in fulfilling its governance and oversight responsibilities in relation to financial reporting, internal control, risk management and external audit. This guidance is provided through recommendations from the committee to Council.

3. As per the committee's terms of reference, a schedule of meetings is to be developed and agreed to by the committee.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL3 Accountability and good governance	Having the meeting dates for the committee set allows for the committee to be aware of when they are expected to be across all items that fall within their terms of reference.

Engagement

Internal engagement	
Stakeholder	Comments
Financial Services	Provided items that will need to be considered by the Audit and Risk Committee.
Governance and Strategy	Provided items that will need to be considered by the Audit and Risk Committee.

Legal compliance

[Part 7 – Audit of the Local Government Act 1995](#)

[Local Government \(Audit\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	If meeting dates are not set, the committee may not fulfil their responsibilities or there may be delays in doing so.	Minor	Unlikely	Low	Low	TREAT risk by setting meeting dates.
Reputation	Not applicable.				Low	
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

4. These meeting dates are being recommended to meet deadlines for items that fit the terms of reference of the Audit Committee. Meeting dates, with expected agenda items, are provided below. The timing of agenda items is subject to change if matters out of the Town's control arise.

Meeting date	Agenda items
19 June 2023	<ul style="list-style-type: none"> • Internal audit plan for 2023-2026 report • Internal audit – community funding and grants internal report • Regulation 17 review report • Strategic risk review report • Audit activity report (to include medium and high-risk findings from the misuse assets resources internal audit).
13 November 2023	<ul style="list-style-type: none"> • Appointment of independent committee members report • Interim audit report • Audit activity report (to include medium and high-risk findings from the community funding and grants internal audit report).

5. The proposed meeting dates have been scheduled to flow into the Council meeting schedule in a timely manner, allowing for decisions of Council to be made. They also provide enough time for the Town to deal with items administratively between meetings, ensuring that deadlines for agenda settlement and creation are met.
6. In the case of other matters arising that need to be considered by the Audit and Risk Committee, the Town will liaise with the committee's chair in the first instance to identify suitable scheduling.

Relevant documents

[Audit and Risk Committee terms of reference](#)

15.3 Audit Activity Update

Location	Town-wide
Reporting officer	Manager Governance and Strategy
Responsible officer	Chief Executive Officer
Voting requirement	Simple majority
Attachments	1. Audit Update Report February 2023 (1) [15.3.1 - 9 pages]

Recommendation from the Audit and Risk Committee:

That Council:

1. Notes the confidential Audit Activity Report, as at Attachment 1 and draws to Council's attention the dates for completion of a number of the items in the report now require review and revision.
2. Requests the Chief Executive Officer to provide an Audit Activity Update report to the Committee by no later than 30 June 2023 as to completion of management's actions as set out in Attachment 1.

Purpose

For Council to receive an update on progress related to internal audit findings.

In brief

- This report is a standard item on the agenda for the Audit and Risk Committee meeting. It reports progress against audit findings.
- There are six medium risk items outstanding.
- Details about activities to address findings are included in the confidential attachment.

Background

1. Under its terms of reference, the Audit and Risk Committee assists Council in overseeing the Town's internal audit program.
2. The Town has performed internal audits into - processes and systems for the management of conflicts of interest and gifts, integrity snapshot and fraud and corruption and on employment practices.
3. All audits identified high and medium risk findings. The risk findings and associated recommendations were addressed in accordance with management responses.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	Performance of internal audits helps the Town to identify improvements to ensure ethics, integrity and probity in decision-making towards greater accountability and transparency.
CL3 - Accountability and good governance.	

Engagement

Internal engagement

Stakeholder	Comments
Governance and Strategy	Provided updates on actions taken to address audit findings.
Community Development	
People and Culture	

Legal compliance

[Section 7.13 of the Local Government Act 1995](#)

[Regulation 17 of the Local Government \(Audit\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Failure to take appropriate management action will mean poor practices in decision-making in vulnerable areas are not identified and rectified, with risks of improper conduct and fraud and corruption resulting in legal penalties.	Moderate	Possible	Medium	Low	TREAT risk by ensuring commitment to management actions to address findings.

Reputation	Failure to take appropriate management action will mean poor practices in decision-making in vulnerable areas are not identified and rectified, with risks of improper conduct and fraud and corruption resulting in brand and reputational damage, as well as community distrust.	Major	Unlikely	Medium	Low	TREAT risk by ensuring commitment to management actions to address findings.
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

4. This report is a standard item on the agenda for the Audit and Risk Committee meeting. It provides a status of implementation of outstanding audit recommendations from audits undertaken.
5. A further three high and two medium outstanding risk items have been included since the committee received the integrity snapshot and fraud and corruption internal audit.
6. There are now six medium risk items outstanding. Comments against these have been provided in the confidential attachment.
7. Findings from the misuse assets resources internal audit will be included in the next report presented to the committee.

Relevant documents

Not applicable.

15.4 Compliance Audit Return 2022

Location	Town-wide
Reporting officer	Manager Governance and Strategy
Responsible officer	Chief Executive Officer
Voting requirement	Simple majority
Attachments	1. Compliance Audit Return 2022 for submission [15.4.1 - 29 pages]

Recommendation from the Audit and Risk Committee:

That Council:

1. Adopts the Compliance Audit Return for the period of 1 January 2022 to 31 December 2022, as shown in Attachment 1, subject to the amendment of the following responses:
 - a) optional question 1 - insert the following comment "Last review undertaken in June 2020, OCM 21 July 2020, item 15.2".
 - b) optional question 2 - response change from "yes" to "no"; and for Town staff to provide an appropriate comment to explain the change.
 - c) optional question 3 - insert a response to the second part of the question as "no" and insert the following comment: "All 4 disclosures were completed as per section 5.87C of the Local Government Act 1995".
 - d) Tenders for Goods & Services Question 8 - change the response from "N/A" to "no".
2. Authorises the Mayor and Chief Executive Officer to jointly certify the Compliance Audit Return and submit it to the Department of Local Government, Sport and Cultural Industries by 31 March 2023.

Purpose

To present the response to the 2022 Compliance Audit Return (CAR) for review by the Audit and Risk Committee and Council endorsement, and to refer the Town's responses to the Department of Local Government, Sport and Cultural Industries (Department).

In brief

- Regulation 14 of the *Local Government (Audit) Regulations 1996* (Audit Regulations) requires that a CAR be completed and submitted to the Department by 31 March 2023.
- Regulation 15 of the Audit Regulations requires a joint certification to be completed by the Mayor and Chief Executive Officer. The document is to be forwarded to the Department via its online portal.
- The Town remains compliant in most part with the CAR for the 2022 calendar year.

Background

1. In accordance with Regulation 14 of the Audit Regulations, the Town is required to carry out an annual audit of statutory compliance in the form determined by the Department.
2. The 2021 CAR deals with the period 1 January 2022 to 31 December 2022 and focuses on those areas considered high risk in accordance with the *Local Government Act 1995* (Act) and associated regulations.
3. The Audit Regulations require that the CAR be presented to Council for adoption following review by its Audit and Risk Committee. Once adopted, the CAR is to be certified by both the Mayor and Chief Executive Officer before it is submitted to the Department by 31 March 2023 through SmartHub.
4. The CAR covers a range of matters that require actions to be completed by local governments in performing their functions to maintain legislative compliance with the Act and associated regulations.
5. The CAR requires that responsible officers respond to the audit questions, whether the Town was compliant of required actions, by answering yes, no or N/A.
6. Local governments are required to provide feedback or comments on areas of non-compliance. This assists the Department in better understanding any problems or issues that have resulted in a local government's inability to achieve full compliance in a particular area.

Strategic alignment

Civic Leadership	
Community priority	
CL3 - Accountability and good governance.	As the completion of a CAR is statutory under the Act, it is important that this review be submitted to the Department by 31 March 2023.

Engagement

Internal engagement	
Stakeholder	Comments
Governance and Strategy	Provided responses under the following sections: commercial enterprises by local governments, delegation of power/duty, disclosure of interest, elections, integrated planning and reporting, official conduct and optional questions.
People and Culture	Provided responses under the following sections: integrated planning and reporting and local government employees.
Financial Services	Provided responses under the following sections: finance, integrated planning and reporting, tenders for providing goods and services and optional questions.
Operations	Provided a response under the following section: disposal of property.
Business Services	Provided a response under the following section: commercial enterprises by local governments.
Property and Leasing	Provided responses under the following sections: commercial enterprises by local governments and disposal of property.

Legal compliance

[Regulation 14 of the Local Government \(Audit\) Regulations 1996](#)

[Regulation 15 of the Local Government \(Audit\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not completing the CAR will result in non-compliance with the Town's statutory reporting obligations.	Moderate	Likely	High	Low	TREAT risk by submitting the attached CAR to the Department by 31 March 2023.
Reputation	Not applicable.				Low	
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

7. The 2022 CAR contains the following compliance categories:

- Commercial Enterprises by Local Governments
- Delegation of Power/Duty
- Disclosure of Interest
- Disposal of Property
- Elections
- Finance
- Integrated Planning and Reporting
- Local Government Employees
- Official Conduct
- Optional Questions
- Tenders for Providing Goods and Services.

8. The following table summarises the Town's performance in each of the compliance categories, along with a comparison between the 2021 and 2022 CARs.

9. The Town is 97% compliant for the 2022 CAR.

Category	2021 Audit Questions	Compliance Rating	2022 Audit Questions	Compliance Rating
Commercial Enterprises by Local Governments	5	100%	5	100%
Delegation of Power/Duty	13	100%	13	100%
Disclosure of Interest	25	92%	21	90.5%
Disposal of Property	2	100%	2	100%
Elections	3	100%	3	100%
Finance	7	86%	7	86%
Integrated Planning & Reporting	3	100%	3	100%
Local Government Employees	6	100%	5	100%
Official Conduct	3	100%	4	100%
Optional questions	9	89%	9	89%
Tenders for Providing Goods and Services	22	100%	22	100%
TOTAL	98	97%	94	97%

10. Four areas of non-compliance were identified in the 2022 CAR, two in the area of Disclosure of Interest and one in both Finance and Optional Questions. Further details are as follows:

a) Disclosure of Interest

- Primary returns - section 5.75 of the Act (Admin Reg 22) – Primary returns are required to be completed by new officers that have delegated authority within three months of their start date. Issues were identified where two staff members did not complete a primary return within three months of their start date. The Town has changed its internal processes in relation to primary returns to ensure that instances of non-compliance in relation to returns are unlikely to be repeated. The two primary returns that were lodged late have already been disclosed to the Department.
- Annual returns - section 5.76 of the Act (Admin Reg 23) –
 - One annual return was received late due to the officer being on maternity leave during the return period. The relevant return was completed and lodged as soon the employee returned from maternity leave.
 - One annual return hasn't been received yet because the employee is still on maternity leave. The relevant return will be completed and lodged as soon as employee returns from maternity leave.
 - One annual return wasn't received because the employee finished employment with the Town on 29 July 2022.

If a relevant person does not lodge a completed return within the prescribed period for any reason, including in circumstances such as long service leave, the non-compliance must still be reported to the relevant regulatory authorities. Including an explanation of the reasons for non-compliance in the CAR will assist the Department in determining if any other action is needed.

b) Finance

- Section 7.9(1) of the Act – The Act states the Auditor's Report should be prepared by 31 December. The Auditor's Report for the 2021/22 financial year was received hasn't been received yet. This matter of non-compliance is out of the Town's control. This non-compliance is a result of the Auditor not presenting the report in accordance with legislation.

c) Optional Questions

- Section 5.87C of the Act – Any gifts received by elected members and the Chief Executive Officer must be disclosed within 10 days of acceptance of the gift. One disclosure made under section 5.87A of the Act was made outside of 10 days.

11. The Town responded as Not Applicable (N/A) to questions 4, 5, 6, and 7 in the Finance category as the Office of the Auditor General report hasn't been received yet. Once the report is received matters raised will be presented to the future Audit and Risk Committee

Relevant documents

Not applicable.

Further Consideration

1. In view of the amendments identified and resolved by the Audit and Risk Committee at its meeting held on 13 February 2023, a revised CAR has been included to this Report as a new Attachment.
2. One amendment from the Committee related to optional question 2 (Audit Reg 17), and to change the response from "yes" to "no" and for Town staff to provide an appropriate comment to explain the change as recommended by the Committee. On further investigation, the following addresses this matter to provide further clarity:
 - a. The last Regulation 17 review was completed in three parts. The first part in the CAR presented to the Committee noted a review was completed in April 2019 (relating to legislative compliance).
 - b. The other two parts were completed and presented to Council (through the former Audit Committee) on 17 September 2019 (internal controls) and 17 December 2019 (risk management).
 - c. Regulation 17 requires a review must be conducted not less than once in every three financial years.
 - d. As the last Regulation 17 review (relating to legislative compliance) concluded in the 2018/19 financial year, the review of legislative compliance should have occurred in 2021/22. The other two remaining audits (internal controls and risk management) must be concluded in 2022/23 financial year to comply with the legislation.
 - e. Therefore, in terms of the 2022 CAR, the response should therefore be "no" (as recommended by the Audit and Risk Committee) as a component of the review, relating to legislative compliance, should have occurred in 2021/22 - being within three years of the last review.
 - f. Notwithstanding, a full Regulation 17 review is about to commence and anticipated to be completed by the end of this financial year (2022/23).
 - g. An appropriate officer comment has now been included in the CAR to reflect the above.
3. The Committee also has recommended to Council a change to Question 8 – Tenders for Goods and Services, originally from "N/A" to a "no". On further investigation, the following addresses this matter to provide further clarity:
 - a. The question in the CAR asks *"Did the local government reject any tenders that were not submitted at the place, and within the time, specified in the invitation to tender?"*.
 - b. During 2022, the Town did not receive any tenders after the closing date as specified in the invitation to tender, and therefore the answer of "N/A" is correct, as it had no tenders to reject that were submitted after the close of invitation.
 - c. If an answer of 'No' is given it would imply that the Town did not reject tenders that may have been submitted after the closing date.
 - d. Notwithstanding, an officer comment has been included to clarify this response of "N/A" for the Department, as the question does not apply to the Town's activities.

4. A matter identified following the Audit and Risk Committee meeting is the response to option question 5 – relating to published information on the Town’s website. The original CAR response was “yes”. It has been identified that the Town’ has not published on its website a report on the type, and the amount or value, of any fees, expenses or allowances paid to each council member during a financial year beginning on or after 1 July 2020 (regulation 29C(2)(f) of the *Local Government (Administration) Regulations 1996*).
5. The Town’s website now includes the reports required for the last two financial years since the legislative provisions were introduced however this question has been responded with a “no” response and an appropriate officer’s comment mad in the CAR accordingly.
6. Furthermore, it has also been identified that the response to Question 7 – Tenders for Providing Goods and Services is required to change from “Yes” to “No”. The Town has maintained a required tender register; however, the details of that register until recently were not updated on the Town’s website. This has now been corrected however a notation has been made accordingly in the 2022 CAR.
7. In view of all the above, the following revised recommendation should be considered at the 21 March 2022 Ordinary Council Meeting:

That Council:

1. *Adopts the amended Compliance Audit Return for the period of 1 January 2022 to 31 December 2022, as shown in Attachment 1, noting the following amendments:*
 - a) *optional question 1 - insert comment "Last review undertaken in June 2020, OCM 21 July 2020, item 15.2";*
 - b) *optional question 2 - response change from "yes" to "no" with officer's comment inserted to explain the change as detailed in Attachment 1;*
 - c) *optional question 3 - insert additional comment "All 4 disclosures were completed as per section 5.87C of the Local Government Act 1995.";*
 - d) *optional question 2 - response change from "yes" to "no" with officer's comment inserted to explain the change as detailed in Attachment 1;*
 - e) *Tenders for Goods & Services Question 7 – response change from “yes” to “no” with an officer’s comment inserted to explain the change as detailed in Attachment 1;*
 - f) *Tenders for Goods & Services Question 8 – retain the response of “N/A” with an officer’s comment inserted to explain the response, as detailed in Attachment 1;*
2. *Authorises the Mayor and Chief Executive Officer to jointly certify the Compliance Audit Return and submit it to the Department of Local Government, Sport and Cultural Industries by 31 March 2023.*

15.5 Cyber Security Audit Report

Location	Town-wide
Reporting officer	Manager Technology and Digital Strategy
Responsible officer	Chief Financial Officer
Voting requirement	Simple majority
Attachments	Nil

Recommendation from the Audit and Risk Committee:

That Council:

1. Notes the progress achieved to date in delivering the program of works that was created in response to the Office of the Auditor General's (OAG) report "Cyber Security in Local Government", subject to the amendment of the estimated completion date for the Disaster Recovery plan to 31 December 2023.
2. Request the Chief Executive Officer to present a report to the Committee by 13 November 2023 outlining a process for the Town's future reporting against any outcomes from any audits (external and internal audits) and a separate process for developing future projects based upon the learnings from the said audit findings.

Purpose

To update Council with the progress made to date in implementing the program of works created in response to the findings contained in the OAG's report "Cyber Security in Local Government" presented to Council in February 2022.

In brief

- In 2021, the Office of the Auditor General (OAG) performed an audit across multiple local government entities in Western Australia to measure the readiness of their cyber security function, aimed at protecting the integrity and security of data and systems being used.
- The Town of Victoria Park's information technology systems and processes as they pertain to the delivery of cyber security functions were reviewed as part of the audit.
- The numerous findings of the report relating to the Town of Victoria Park will require significant investment of Town resources in order to rectify the identified issues.
- A program of works was developed to address the documented issues.
- The Town's Information Technology team has been working with subject matter experts in the field of cyber security to deliver the actions contained in the program of works.

Background

1. The Australian Cyber Security Centre (ACSC) is the Australian Government's lead agency for cyber security and is part of the Australian Signals Directorate. In 2017, the ACSC released the "Essential Eight" maturity model which has been adopted by many government entities as the baseline for their cyber security stance. It outlines what the ACSC suggests as the baseline cyber security defenses that should be implemented by organisations in their efforts to protect themselves from cyber attacks.

2. In 2021, the OAG selected 15 local government entities for auditing, with the focus on their cyber security processes and procedures aimed at protecting the integrity and security of data and systems being used in the provision of services. The Town of Victoria Park was one of the entities selected.
3. The scope of the audit performed was heavily weighted toward the Essential Eight maturity model.
4. The report resulting from the audit, titled "Cyber Security in Local Government" was tabled in Parliament in late 2021. The report was very critical of the maturity of many of the entities audited, including the Town of Victoria Park.
5. The outcomes from the audit have been used as inputs for the creation of a program of works required to be delivered in order to mitigate the concerns raised by the audit.
6. The Town's Information Technology team has been working with subject matter experts in the field of cyber security to deliver the actions contained in the program of works.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL04 - Appropriate information management that is easily accessible, accurate and reliable.	Ensure that the information and data stored and used by the Town of Victoria Park is protected from cyber criminals and available when required.

Engagement

Not applicable.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Potential financial loss from data corruption/data loss/information loss due to cyber attack.	Major	Almost Certain	Extreme	Low	TREAT risk by Creation and implementation of cyber security policies and procedures in line with ACSC's "Essential Eight".
Environmental	Not applicable.					
Health and safety	Not applicable.					

Infrastructure/ ICT systems/ utilities	Loss of ICT or disruption to ICT from data corruption/data loss/information loss due to cyber attack.	Severe	Almost Certain	Extreme	Medium	TREAT risk by Creation and implementation of cyber security policies and procedures in line with ACSC's "Essential Eight".
Legislative compliance	Not applicable.					
Reputation	Negative perception from data corruption/data loss/information loss due to cyber attack.	Major	Almost Certain	Extreme	Low	TREAT risk by Creation and implementation of cyber security policies and procedures in line with ACSC's "Essential Eight".
Service delivery	Impact on service delivery from data corruption/data loss/information loss due to cyber attack.	Major	Almost Certain	Extreme	Medium	TREAT risk by Creation and implementation of cyber security policies and procedures in line with ACSC's "Essential Eight".

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	<ol style="list-style-type: none"> 1. The ongoing mitigation of cyber risk will require the creation of capability in the cyber security field to ensure a pro-active security posture to prevent cyber attacks. This will require either the creation of this capability within the IT team which may result in an increase in head-count or the engagement of an external consultancy to provide this service. 2. There will also be a requirement for ongoing evaluation and testing of the Town's cyber security defenses to ensure that no new vulnerabilities have been missed. 3. 3. The cost of these initiatives will fluctuate based on market conditions and is not known at this point in time.

Analysis

7. Following is the program of works proposed in February 2022. The items have been updated with progress to date and the estimated completion date has been updated based on progress and available resources: -

Findings	Action Required	Estimated Completion Date
Vulnerability Management	<p>Create Vulnerability Management Process. Engage expertise to perform full vulnerability audit. Fix/mitigate issues identified.</p> <p>Progress: Previous Comment: This work is currently in progress. Vulnerability testing is currently being undertaken and a report is expected by the end of October. The identified vulnerabilities will then be addressed and remediated or mitigated as and where possible. Updated comment: Detailed IT System review undertaken by third party. A prioritised work list has been produced indicating project and resource hours required. Staff are systematically working through implementation including allocating appropriate internal and/or external resources. Some high priority tasks have already been actioned, lower order priority actions will be actioned subsequently.</p>	<p>31/12/2022</p> <p>31/12/2023</p>
Risk Management	<p>Update risk register with identified cyber and information security risks.</p> <p>Progress: Completed.</p>	<p>31/03/2022 Complete.</p>
Cyber Security Strategy	<p>Review and amend HR Practice HRP010 – “Information Systems, Email and Internet Use” as required to address cyber security issues and risks.</p> <p>Progress: This work is currently in progress and is expected to be completed in November 2022. Update comment: In progress. Initial review indicates probable complete rewrite to allow for significant change in use of work from home, video conferencing, online chat (Teams) and file sharing. Elements are captured in recently updated staff Code of Conduct. Discussions with People and Culture occurring. Likely to be completed in June 2023.</p>	<p>30/11/2022</p> <p>30/06/2023</p>
Cyber Security Awareness Training	<p>Identify, select and implement a best-of-breed, commercial off the shelf solution or engage a suitable service provider to deliver a “Software as a Service” solution to deliver training, testing and evaluation in the area of cyber security awareness.</p> <p>Progress: Completed. The ongoing training schedule will commence in October 2022. Further comment: Compulsory training videos and awareness ongoing. Mentioned in staff meetings. White hat hacker services engaged for phishing program.</p>	<p>31/10/2022</p> <p>Complete.</p>
Incident Detection and Response	<p>Create the Cyber Incidence Response Plan. Research the feasibility and cost options for the delivery of cyber security monitoring and response capability from both an in-house and managed service perspective.</p>	

	<p>Select the best option and implement.</p> <p>Progress: Work in progress. Investigations have revealed that managed services can deliver the required outcomes in a more cost-effective way than an internal resource. This also mitigates risk associated with staff leave / turnover. Negotiations for a suitable service are continuing. Updated comment: Quotes being sought for possible managed service for some elements. Number of tasks identified in IT System review that address this finding,</p>	<p>31/12/2022</p> <p>30/06/2023</p>
Disaster Recovery Plan (DR Plan)	<p>Develop Disaster Recovery Plan and document. Establish testing regime for the Disaster Recovery Plan. Schedule regular fail-over test to ensure veracity of the plan.</p> <p>Progress: Work in progress. The Disaster Recovery Plan is currently being updated to reflect the changes in the Town's IT infrastructure and backup regimes. Updated comment: Following the detailed IT system review (listed above), current DR plan needs review in light of further findings in that review.</p>	<p>31/12/2022</p> <p>31/12/2023</p>
Business Continuity Plan	<p>Ensure that the Business Continuity Plan (BCP) is up to date. Investigate options for testing the BCP.</p> <p>Progress: Completed. The Business Continuity Plan has been continuously updated as part of the COVID-19 response by the Town. Business continuity testing is under investigation and will be addressed as part of the overall BCP.</p>	<p>30/09/2022</p>

8. Some findings from the original OAG report have been completed. Other elements are still a work in progress with a revised end date, some which will be ongoing, such as cyber security training.

Relevant documents

Not applicable.

Further Consideration

9. The Committee requested clarification on anticipated completion date for the updated Disaster Recovery Plan, which has been amended in the report from "TBC" to "31/12/2023."
10. Further, cyber security training program has commenced, and the completion date has been amended from "Ongoing" to "Complete", noting training and awareness of cybersecurity matters is now an ongoing matter for the Town.
11. For clarification "Complete" was added below the date under Risk Management.

- 16 Motion of which previous notice has been given**

- 17 Public participation time**

- 18 Questions from members without notice on general matters**

- 19 Confidential matters**
 - 19.1 Provision of Electrical Services TVP/22/17**
 - 19.2 Engineering Construction and Maintenance Services TVP/22/016**
 - 19.3 Asset Management Consultancy TVP/23/03**

- 20 Closure**